

SEC92

**In the Matter of:**

*U.S. Securities and Exchange Commission v. Kik Interactive, Inc.*

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*Alexander Rousmaniere*

*November 22, 2019*

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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3  
4 U S SECURITIES AND EXCHANGE )  
5 COMMISSION, )  
6 )  
7 Plaintiff, )  
8 )  
9 vs ) No 19-cv-05244  
10 ) (AKH)  
11 )  
12 KIK INTERACTIVE, INC , )  
13 )  
14 Defendant )  
15 )  
16  
17  
18  
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20  
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22  
23  
24 DEPOSITION OF ALEXANDER ROUSMANIERE  
25 FRIDAY, NOVEMBER 22, 2019  
SANTA MONICA, CALIFORNIA  
  
REPORTED BY: JEANINE CURCIONE  
CSR NO 10223, RPR  
FILE NO : 88574

1 I N D E X  
2  
3 WITNESS EXAMINATION PAGE  
4 ALEXANDER ROUSMANIERE  
5 BY MS BAILEY 5  
6 BY MS D'ALLAIRD 111  
7  
8 E X H I B I T S  
9 NO PAGE DESCRIPTION  
10 Exhibit 101 7 Subpoena  
11 Exhibit 102 12 Letter from SEC to Alexander  
Rousmaniere dated 6/28/18  
12  
13 Exhibit 103 15 Document Bates Stamped  
SEC-KIK-LIT-E-0000990  
14 Exhibit 104 21 Document Bates Stamped  
SEC-ROUSMANIERE-E-0000001-12  
15  
16 Exhibit 105 31 Deposition Transcript of  
Alexander Perls Rousmaniere  
dated 7/18/18  
17  
18 Exhibit 106 45 Screenshot from Kin Kik com  
19  
20 Exhibit 107 98 Screenshot from CoinMarketCap  
Website  
21 Exhibit 108 104 Whitepaper for Kik Interactive,  
Inc  
22  
23  
24  
25

1 Deposition of ALEXANDER ROUSMANIERE, taken on behalf  
2 of Plaintiff, at 9:02 A M , Friday, November 22,  
3 2019, at 1333 2nd Street, Suite 400, Santa Monica,  
4 California, before Jeanine Curcione, C S R No  
5 10223, RPR, pursuant to notice  
6  
7 APPEARANCES OF COUNSEL:  
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18  
19 ALSO PRESENT:  
20 Albert Salaz, Videographer  
21  
22  
23  
24  
25

1 SANTA MONICA, CALIFORNIA;  
2 FRIDAY, NOVEMBER 22, 2019, 9:02 A.M.  
3  
4 THE VIDEO OPERATOR: Good morning. We're  
5 on the record. This is the start of media number  
6 one of the video recorded deposition of Alexander  
7 Rousmaniere in the matter of US Securities and  
8 Exchange Commission versus Kik Interactive,  
9 Incorporated, filed in the United States District  
10 Court, State of New York. Case number  
11 19-CV-05244AKH.  
12 This deposition is being held at 1333  
13 Second Street, Suite 400, Santa Monica, California  
14 90401 on the date of November 22, 2019 at  
15 approximately 9:03 A.M. My name is Albert Salaz  
16 with O'Brien Levine Court Reporting and I'm the  
17 legal video specialist. The court reporter today is  
18 Jeanine Curcione with O'Brien and Levine Court  
19 Reporting.  
20 Will counsel please state their  
21 appearances and state whom they represent on the  
22 record after which the court reporter will swear in  
23 the witness.  
24 MS. BAILEY: Jenna Bailey from Cooley on  
25 behalf of Kik Interactive.

<p style="text-align: right;">Page 5</p> <p>1 MR. DE JARNETTE: Brett De Jarnette from  2 Cooley on behalf of Kik.  3 MS. D'ALLAIRD: Laura D'Allaird on behalf  4 of the US Securities and Exchange Commission.  5 MR. LEASURE: Jeff Leasure, SEC.  6  7 ALEXANDER ROUSMANIERE,  8 having been duly affirmed, was  9 examined and testified as follows:  10  11 EXAMINATION  12 BY MS. BAILEY:  13 Q. Good morning, Mr. Rousmaniere. Thank you  14 for being here today. I know it's an inconvenience  15 but we'll try to get through this as efficiently as  16 possible and get you out of here. So I'm aware that  17 you already testified last summer but other than  18 that have you ever had your deposition taken before?  19 A. No.  20 Q. So to start off I'm going to go over a few  21 basic ground rules. Could you please state your  22 name for the record.  23 A. Alexander Rousmaniere.  24 Q. Do you understand you're under oath as if  25 you were testifying in court with a judge?</p>	<p style="text-align: right;">Page 7</p> <p>1 question I asked and it's pending you answer the  2 question and then we go on the break. Does that  3 make sense to you?  4 A. Yes.  5 Q. Is there any reason why you can't testify  6 competently and honestly here today?  7 A. No.  8 Q. So what is your understanding of the  9 reason that you're here today?  10 A. I think there is a lawsuit that the SEC is  11 suing Kik.  12 Q. And did you receive a subpoena to appear  13 here today?  14 A. Yes.  15 Q. So the court reporter is handing you  16 what's just been marked as Exhibit 101. Do you  17 recognize this document?  18 (Exhibit 101 was marked for identification  19 by the Reporter.)  20 THE WITNESS: Yes.  21 BY MS. BAILEY:  22 Q. Are you appearing here today pursuant to  23 the subpoena?  24 A. Yes.  25 Q. We're done with that. So earlier the</p>
<p style="text-align: right;">Page 6</p> <p>1 A. Yes, I do.  2 Q. So as you can see we have a court reporter  3 present here today. She's going to be transcribing  4 everything that we say in the room, so to help her  5 do that please just wait for me to get through the  6 end of my question before you start answering me. I  7 know it's not natural in the course of conversation  8 but bear with me and then make sure to answer all of  9 my questions audibly, vocally and without huh-uh or  10 nods which won't be picked up by the transcript.  11 And you also may recognize the SEC  12 attorneys that are here with us today. They may  13 from time to time object to my questions. If they  14 do so they're preserving their objections for the  15 record but you should still feel free to answer my  16 question unless you are told otherwise. But let  17 them get their objections out before answering the  18 question so we can have a clean record.  19 If you don't understand any of my  20 questions please let me know and I'll rephrase it to  21 make sure you do. If you don't ask I'll assume that  22 you understood so please let me know. And if you  23 ever need a break at any time, again, we'll try not  24 to be here too long but let me know and we'll take a  25 break. The only thing I ask is if there's a</p>	<p style="text-align: right;">Page 8</p> <p>1 first question I asked you, you said that you  2 understood because SEC was suing Kik Interactive.  3 Can you explain what you understand the nature of  4 this lawsuit to be about?  5 A. My understanding is that the SEC is  6 asserting that Kik should have done certain things  7 before or during the issuance of its Kin token to  8 comply with securities law.  9 Q. Okay. Do you have a sense or an  10 understanding of what those things would have been?  11 MS. D'ALLAIRD: Objection.  12 THE WITNESS: Not specifically.  13 BY MS. BAILEY:  14 Q. And you mentioned that it was related to  15 securities laws. How much do you understand about  16 securities laws?  17 A. Undergraduate level. Not -- nothing in  18 detail.  19 Q. Did you ever take a class or anything  20 where it was specifically discussed?  21 A. Probably -- I took a law and economics  22 class undergraduate level. That's about it.  23 Q. So is it fair to say you're generally  24 aware of what securities laws are and how they work?  25 MS. D'ALLAIRD: Objection.</p>

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1 THE WITNESS: I'm not really in a position  
2 to judge that.  
3 BY MS. BAILEY:  
4 **Q. Have you read the complaint that the SEC**  
5 **filed in this case?**  
6 A. I may have looked at it briefly but I  
7 haven't read the entire thing.  
8 **Q. Do you remember about when that was?**  
9 A. Maybe near the time of the complaint. I  
10 think I -- it -- I would have looked at least at the  
11 front page of it when -- I follow Coin Desk which is  
12 the news source so whenever it was, I think it was  
13 in the last year at some point. I can't remember  
14 when exactly.  
15 **Q. So do you understand though that that**  
16 **complaint was filed about a year and a half after**  
17 **the sale was completed?**  
18 A. I can't answer -- if you're telling me  
19 that and that is the case then I wouldn't dispute  
20 that.  
21 **Q. I'm just trying to understand what your**  
22 **level is about the case so far, so if you're not**  
23 **aware of that --**  
24 A. I don't know the exact timing of the  
25 filing of the suit, no.

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1 **Q. By any chance have you read Kik's response**  
2 **to the SEC's complaint?**  
3 A. Not that I can recall.  
4 **Q. Have you seen any articles or anything**  
5 **else discussing Kik's response in Coin Desk or**  
6 **other --**  
7 A. Yes, but I don't remember the details of  
8 them.  
9 **Q. Stepping back for a minute, how did you**  
10 **prepare for your deposition today?**  
11 A. I didn't prepare.  
12 **Q. So did you speak with anybody about your**  
13 **deposition?**  
14 A. No.  
15 **Q. Did you review any documents to prepare**  
16 **for this deposition?**  
17 A. No.  
18 **Q. So when was the first time you can recall**  
19 **the SEC -- when I say SEC I'm referring to the**  
20 **Securities and Exchange Commission. I assume you**  
21 **understand that. When did they first contact you**  
22 **regarding their investigation into Kik?**  
23 A. I do know that I had a deposition with the  
24 SEC last summer and so they probably contacted me --  
25 I don't know exactly but it would have been a month

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1 or two prior to that. So it would have been late  
2 spring of 2018. I think.  
3 **Q. Okay. And I'm going to run through a**  
4 **number of names. If you could just let me know if**  
5 **you ever remember communicating with these**  
6 **individuals. How about Brent Mitchell?**  
7 A. Yes, sounds familiar.  
8 **Q. Do you remember having phone conversations**  
9 **with him?**  
10 A. I'm not sure.  
11 **Q. How about e-mails?**  
12 A. Possibly.  
13 **Q. What about James Murtha?**  
14 A. Yes.  
15 **Q. So did you have phone conversations with**  
16 **him?**  
17 A. Either phone or e-mail. But that sounds  
18 very familiar.  
19 **Q. Okay. Could it possibly be both phone --**  
20 A. Yes.  
21 **Q. How about Jeff Leasure?**  
22 A. Yes.  
23 **Q. Phone and e-mail?**  
24 A. Possibly both.  
25 **Q. How about Steven Schlegelmilch?**

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1 A. That name does not ring a bell.  
2 **Q. What about David Mendel?**  
3 A. Name does not ring a bell.  
4 **Q. And then Laura D'Allaird?**  
5 A. I don't remember. No.  
6 **Q. So I've just handed you what's been marked**  
7 **as Exhibit 102. It appears to be a PDF with the**  
8 **title "United States Securities and Exchange**  
9 **Commission." The subject matter is in the matter of**  
10 **Kik Interactive and it says it was sent via e-mail**  
11 **to [REDACTED]. Does this document look**  
12 **familiar to you?**  
13 (Exhibit 102 was marked for identification  
14 by the Reporter.)  
15 THE WITNESS: Yes, it does.  
16 BY MS. BAILEY:  
17 **Q. And is [REDACTED], is that your**  
18 **contact information?**  
19 A. Yes, it is.  
20 **Q. So what is this document?**  
21 A. It seems to be -- it looks like it's the  
22 subpoena which preceded my deposition of last  
23 summer.  
24 **Q. Great. And if you can remember, was this**  
25 **the first time you spoke with the SEC?**

<p style="text-align: right;">Page 13</p> <p>1 A. No.</p> <p>2 <b>Q. Okay. If you can turn with me to -- so I</b></p> <p>3 <b>forgot to mention this document bears the Bates</b></p> <p>4 <b>label. When I refer to Bates label that's the</b></p> <p>5 <b>numbering and lettering in the bottom right-hand</b></p> <p>6 <b>corner. It bears the Bates label</b></p> <p>7 <b>SEC-Kik-LIT-E-0000344. If you can turn with me to</b></p> <p>8 <b>Bates number 0000347.</b></p> <p>9 A. Okay.</p> <p>10 <b>Q. You'll see on this page there's two boxes</b></p> <p>11 <b>that have been checked. One says "you must produce"</b></p> <p>12 <b>and then lists a number of things and one says "you</b></p> <p>13 <b>must testify." Do you see that?</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. Did you produce any documents in response</b></p> <p>16 <b>to this subpoena?</b></p> <p>17 A. In response to this subpoena. I can't --</p> <p>18 I don't know. However, I did at one point there was</p> <p>19 a -- it was either this or before this or after this</p> <p>20 or somewhere around there, there was a request for</p> <p>21 documents which involved me copying and pasting five</p> <p>22 or ten, maybe 15 e-mails into a text document and</p> <p>23 sending it to somebody, possibly James Murtha and I</p> <p>24 believe that was the full extent of everything I</p> <p>25 produced.</p>	<p style="text-align: right;">Page 15</p> <p>1 e-mails were already in my Gmail box and as I</p> <p>2 remember I just copied and pasted whatever e-mails I</p> <p>3 had which were -- as I recall only just group --</p> <p>4 e-mails from Kik that I received. I don't think I</p> <p>5 ever sent -- oh, except there may have been part of</p> <p>6 the either KYC or to prove that I was an accredited</p> <p>7 investor so that may have been some outgoing e-mail</p> <p>8 but otherwise that was it. There was like a few</p> <p>9 e-mails.</p> <p>10 <b>Q. But you don't have any routine practice of</b></p> <p>11 <b>deleting certain amounts of e-mails.</b></p> <p>12 A. I do not.</p> <p>13 <b>Q. And were all your communications with Kik</b></p> <p>14 <b>through your Gmail account if you recall?</b></p> <p>15 A. Yes.</p> <p>16 <b>Q. So you've just been handed a document</b></p> <p>17 <b>labeled Exhibit 103. It bears the Bates label</b></p> <p>18 <b>SEC-Kik-LIT-E-0000990. Does this document look</b></p> <p>19 <b>familiar to you?</b></p> <p>20 A. It does but mine is labeled 105.</p> <p>21 (Exhibit 103 was marked for identification</p> <p>22 by the Reporter.)</p> <p>23 (Court reporter remarked exhibit.)</p> <p>24 BY MS. BAILEY:</p> <p>25 <b>Q. Does this document look familiar to you?</b></p>
<p style="text-align: right;">Page 14</p> <p>1 <b>Q. Can you remember any other requests for</b></p> <p>2 <b>documents other than this subpoena?</b></p> <p>3 A. No.</p> <p>4 <b>Q. Any that were given to you verbally or in</b></p> <p>5 <b>other communications?</b></p> <p>6 A. I don't know. But I can't remember what</p> <p>7 the -- when the request was made and what the exact</p> <p>8 nature of the request was, however, I do remember --</p> <p>9 as I just said about the documents I did provide.</p> <p>10 <b>Q. Sure. Okay. Thank you. I know it's been</b></p> <p>11 <b>a long time. If you could flip with me one more</b></p> <p>12 <b>time to Bates number 0000351. You'll see there's a</b></p> <p>13 <b>number C, "Documents to be preserved and produced,"</b></p> <p>14 <b>and then there's a category of documents listed</b></p> <p>15 <b>here. Does this look familiar to you?</b></p> <p>16 A. It doesn't look familiar but I see it now.</p> <p>17 <b>Q. As you read this here today -- and I'll</b></p> <p>18 <b>give you a minute if you need time, does this</b></p> <p>19 <b>roughly reflect the type of documents that you</b></p> <p>20 <b>searched for and produced to the SEC?</b></p> <p>21 A. Yes.</p> <p>22 <b>Q. Around the time of June 28 when you</b></p> <p>23 <b>received this subpoena, do you remember making any</b></p> <p>24 <b>efforts to preserve your e-mails related to Kik?</b></p> <p>25 A. I didn't make special efforts because the</p>	<p style="text-align: right;">Page 16</p> <p>1 A. Yes.</p> <p>2 <b>Q. Can you describe the communications in</b></p> <p>3 <b>this document?</b></p> <p>4 A. This is what I was just referring to and</p> <p>5 this would have been all the e-mails regarding Kik</p> <p>6 and Kin, in chronological order.</p> <p>7 <b>Q. Did you hire an attorney to help you put</b></p> <p>8 <b>this production of documents together?</b></p> <p>9 A. I did not.</p> <p>10 <b>Q. Did anyone else advise you on how to put</b></p> <p>11 <b>this production together?</b></p> <p>12 A. No, they did not.</p> <p>13 <b>Q. Does that include anyone from the SEC?</b></p> <p>14 A. Well, since there was nobody then it would</p> <p>15 disinclude anybody from SEC explicitly; right?</p> <p>16 <b>Q. Okay. So here you refer to a record of</b></p> <p>17 <b>correspondence regarding Kik -- Kin and Kik. Does</b></p> <p>18 <b>this roughly reflect to your knowledge all of your</b></p> <p>19 <b>communications regarding Kin and Kik?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. So just now I want to have a base level of</b></p> <p>22 <b>terminology that we're using. Just now when you</b></p> <p>23 <b>were describing what Kin is you used the word</b></p> <p>24 <b>currency. Can you describe to me what you mean when</b></p> <p>25 <b>you say the word currency in this context?</b></p>



<p style="text-align: right;">Page 17</p> <p>1 A. I'm using that only in the most broad  2 descriptive term. You can also refer to it as a  3 token. Cryptocurrency. Yeah, I don't claim to have  4 an exact word for it.  5 <b>Q. So we're going to obviously talk about</b>  6 <b>cryptocurrency today. What are you referring to by</b>  7 <b>the term cryptocurrency if you had to describe it?</b>  8 A. It could be anything from Bitcoin to  9 Ethereum to other tokens to any kind of --  10 anything -- anything that uses the technology that  11 descended from Bitcoin.  12 <b>Q. So would you categorize Kin as in that</b>  13 <b>same category?</b>  14 A. Yes.  15 <b>Q. And you mentioned the technology tracing</b>  16 <b>back to Bitcoin. Are you referring to blockchain</b>  17 <b>technology?</b>  18 A. Yes.  19 <b>Q. What is your level of understanding about</b>  20 <b>how blockchain technology works?</b>  21 A. I'm not sure how to rate it but I have  22 some technical understanding of it.  23 <b>Q. Could you try and explain it to me?</b>  24 A. From scratch?  25 <b>Q. Just your basic understanding of how</b></p>	<p style="text-align: right;">Page 19</p> <p>1 MS. D'ALLAIRD: Objection.  2 THE WITNESS: I guess it can be, yes.  3 BY MS. BAILEY:  4 <b>Q. Do you know one way or the other whether</b>  5 <b>Kin ran on the Ethereum blockchain at the point of</b>  6 <b>the token sale?</b>  7 MS. D'ALLAIRD: Objection.  8 THE WITNESS: I don't remember either way.  9 BY MS. BAILEY:  10 <b>Q. So at the time you purchased Kin, you</b>  11 <b>didn't know necessarily whether it would run on</b>  12 <b>blockchain technology or which blockchain it would</b>  13 <b>operate on?</b>  14 MS. D'ALLAIRD: Objection.  15 THE WITNESS: Now that I remember Kin did  16 run on the Ethereum network at the time and my  17 possession of the Kin that I bought was actually it  18 was inside of an Ethereum wall as an alternative  19 token but -- as far as I remember it was on the  20 Ethereum blockchain. That's correct.  21 BY MS. BAILEY:  22 <b>Q. Are you familiar with the term</b>  23 <b>"decentralized" in this case?</b>  24 A. Yes.  25 <b>Q. What is your understanding of what that</b></p>
<p style="text-align: right;">Page 18</p> <p>1 <b>blockchain technology works.</b>  2 A. Well, it's -- blockchain technology is a  3 way of cryptographically securing what previously  4 was hard to track, like just virtual dollars or  5 virtual points of some kind. And the blockchain  6 allows the users of the currency to verify who  7 actually owns it and the ownership is -- the  8 ownership is proven by the possession of a private  9 key which can be verified but not duplicated by a  10 recipient or third party and it requires -- yeah.  11 So keep it there.  12 <b>Q. That's great. And cryptocurrency in your</b>  13 <b>knowledge runs on top of blockchain technology?</b>  14 MS. D'ALLAIRD: Objection.  15 THE WITNESS: I think most of it does.  16 Yes. I know that Ethereum and Bitcoin do and I know  17 that most of the cryptocurrencies I know about also  18 run on blockchain technology.  19 BY MS. BAILEY:  20 <b>Q. How about Kin?</b>  21 A. I'm actually -- I'm vague on the actual  22 technical underpinnings of Kin.  23 <b>Q. And cryptocurrency in your experience, is</b>  24 <b>that typically something that's a medium of</b>  25 <b>exchange?</b></p>	<p style="text-align: right;">Page 20</p> <p>1 <b>means in the context of blockchain technology?</b>  2 A. That the system can be run unlike for  3 example a database system which requires a central  4 source of truth, there is in the case of  5 cryptocurrency there is a decentralized source of  6 truth that is -- that has to do with a consensus  7 between the nodes that are participating in the --  8 in the -- in the protocol.  9 <b>Q. Got it. And I apologize for asking so</b>  10 <b>many basic questions but could you explain to me</b>  11 <b>what a node is?</b>  12 A. A node in this case usually is actually  13 just a computer that has usually a complete set of  14 all the transactions and is able to broad -- is able  15 to serve client requests for information about the  16 blockchain and is able to communicate with other  17 computers, other nodes in order to -- for all the  18 nodes to keep up with the most recent information  19 about the blockchain.  20 <b>Q. Got it. So is it fair to say that your</b>  21 <b>understanding is that the nodes are operating the</b>  22 <b>protocol that is underpinning the blockchain?</b>  23 MS. D'ALLAIRD: Objection.  24 THE WITNESS: Yes.  25 ///</p>

<p style="text-align: right;">Page 21</p> <p>1 BY MS. BAILEY:</p> <p>2 <b>Q. Is that a fair characterization of what</b></p> <p>3 <b>you just explained to me?</b></p> <p>4 A. Yes.</p> <p>5 <b>Q. Okay. I'd like to go back now that we've</b></p> <p>6 <b>sort of set some basic understanding. I'd like to</b></p> <p>7 <b>go back to one more document.</b></p> <p>8 <b>So you've just been handed a document</b></p> <p>9 <b>marked 104. It bears the Bates label</b></p> <p>10 <b>SEC-Rousmaniere-E-0000001 through 0000012.</b></p> <p>11 (Exhibit 104 was marked for identification</p> <p>12 by the Reporter.)</p> <p>13 BY MS. BAILEY:</p> <p>14 <b>Q. Do you recognize this document?</b></p> <p>15 A. I do.</p> <p>16 <b>Q. Could you describe to me what this is?</b></p> <p>17 A. This looks like the compendium of the</p> <p>18 e-mails I put together.</p> <p>19 <b>Q. So this is the set of documents you</b></p> <p>20 <b>mentioned earlier that you produced in response to</b></p> <p>21 <b>the subpoena we discussed earlier.</b></p> <p>22 A. Yes.</p> <p>23 <b>Q. So does this e-mail consist -- or does</b></p> <p>24 <b>this document consist of multiple e-mails that you</b></p> <p>25 <b>provided to the SEC?</b></p>	<p style="text-align: right;">Page 23</p> <p>1 <b>Kin. We're contacting a group of Kin purchasers to</b></p> <p>2 <b>better understand the offering."</b></p> <p>3 <b>Does that help refresh your memory on</b></p> <p>4 <b>whether this was the first time you ever heard from</b></p> <p>5 <b>somebody at the SEC?</b></p> <p>6 A. It seems likely this was.</p> <p>7 <b>Q. And it says here, "Can you propose some</b></p> <p>8 <b>times when you can speak to us and tell us what</b></p> <p>9 <b>known number to call." Do you recall having an</b></p> <p>10 <b>initial call with them sometime around January?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. And below here you say, "Would be happy to</b></p> <p>13 <b>help," and then provide your phone number; right?</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. So when you spoke in January was that a</b></p> <p>16 <b>phone call?</b></p> <p>17 A. Yes.</p> <p>18 <b>Q. Do you recall who was on the call?</b></p> <p>19 A. I do not.</p> <p>20 <b>Q. Do you remember what you discussed on that</b></p> <p>21 <b>call?</b></p> <p>22 A. Not in -- no. Not in detail.</p> <p>23 <b>Q. If you can remember what was the subject</b></p> <p>24 <b>matter generally?</b></p> <p>25 A. My discussions with -- there was a few</p>
<p style="text-align: right;">Page 22</p> <p>1 A. Yes.</p> <p>2 <b>Q. If you go with me to Bates page 0000010,</b></p> <p>3 <b>10, at the very bottom of the page there there's an</b></p> <p>4 <b>e-mail from Brent S. Mitchell to Perls James and</b></p> <p>5 <b>Jeffery on January 8. Is Perls you?</b></p> <p>6 A. Yes.</p> <p>7 <b>Q. Am I saying that correctly?</b></p> <p>8 A. Uh-huh.</p> <p>9 <b>Q. And James and Jeffery, do you understand</b></p> <p>10 <b>those to be SEC attorneys?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. Was this the first time that somebody from</b></p> <p>13 <b>the SEC reached out to you?</b></p> <p>14 A. I mean, this is the end of the documents</p> <p>15 in reverse chronological order. Although --</p> <p>16 possibly, yes.</p> <p>17 <b>Q. So if you could just take a minute and</b></p> <p>18 <b>read through the e-mail from Brent Mitchell on</b></p> <p>19 <b>January 8. He says, "I'm an enforcement attorney in</b></p> <p>20 <b>the SEC's enforcement division along with my</b></p> <p>21 <b>colleagues copied on this e-mail, Jeff Leasure and</b></p> <p>22 <b>James Murtha. I'm conducting a nonpublic</b></p> <p>23 <b>investigation into Kik Interactive's September 2017</b></p> <p>24 <b>offering of Kin tokens." He says, "We're interested</b></p> <p>25 <b>in asking you some questions about your purchase of</b></p>	<p style="text-align: right;">Page 24</p> <p>1 discussions with the SEC before my deposition during</p> <p>2 this time and then during the deposition and then</p> <p>3 subsequent to the deposition recently and all I can</p> <p>4 tell you in specific is that each time the</p> <p>5 conversations kind of covered the same ground.</p> <p>6 That's what stuck out at me is they kind of had the</p> <p>7 same questions for me each time. Beyond that like</p> <p>8 nothing really stands out as being different during</p> <p>9 one conversation or another.</p> <p>10 <b>Q. Can you recall the subject matter then of</b></p> <p>11 <b>maybe one of your more recent conversations with</b></p> <p>12 <b>them?</b></p> <p>13 A. I think the most recent phone conversation</p> <p>14 with them was notable in that it seemed to just go</p> <p>15 over the existing material that was already in my</p> <p>16 deposition. Like they wanted to make sure I was</p> <p>17 still going to say the same thing that I said in my</p> <p>18 deposition and the question that they've asked -- I</p> <p>19 remember they asked I think back then at the</p> <p>20 deposition, after the deposition had to do with did</p> <p>21 I have special -- did I have any particular special</p> <p>22 conversations with Kik and also did I have access to</p> <p>23 some stickers or some kind of free goods or goodies</p> <p>24 somehow and my answer to that was no, I didn't.</p> <p>25 <b>Q. So then is it fair to say that you</b></p>



<p style="text-align: right;">Page 25</p> <p><b>1 remember discussing digital stickers in this initial</b>  <b>2 January call that you had with the SEC?</b>  3 MS. D'ALLAIRD: Objection.  4 THE WITNESS: I don't know.  5 BY MS. BAILEY:  <b>6 Q. So one of the other things that you</b>  <b>7 mentioned just now was they were wondering if you</b>  <b>8 had any special conversations with Kik. Could you</b>  <b>9 elaborate on what you mean by that?</b>  10 A. Well, clearly I provided them with all the  11 e-mails and they had asked me -- they had asked me  12 if I -- oh, yeah, they asked me at times if I was on  13 a telegram group or -- I think they wanted to see if  14 I had any -- what kind of communication I had with  15 Kik around the sale and I had like -- it was easy to  16 answer because I had virtually no communication with  17 them besides these e-mails you've seen.  <b>18 Q. Okay. And can you recall whether the SEC</b>  <b>19 represented to you what their investigation was</b>  <b>20 about in this January phone call?</b>  21 A. Where's their -- let's see. Where's  22 this -- no. They didn't -- no, I don't think  23 they've ever described what the investigation is  24 about.  <b>25 Q. But you did understand it to be about</b></p>	<p style="text-align: right;">Page 27</p> <p>1 selling a small block of Kin tokens and I can't  2 remember the outcome of it. Whatever the outcome  3 was it didn't encourage me to sell anymore. That's  4 for sure.  <b>5 Q. So you can't remember if you were able to</b>  <b>6 actually sell any of your Kin tokens at that time?</b>  7 A. I can't remember specifically, no.  <b>8 Q. And you said the words "recreational stab"</b>  <b>9 at it?</b>  10 A. Just to see if there was a market for it.  <b>11 Q. Market meaning -- do you remember that it</b>  <b>12 was possible to sell your Kin --</b>  13 A. To see if there were buyers?  <b>14 Q. Whether there was demand?</b>  15 A. Yeah, whether there was enough liquidity  16 in the marketplace that there were actually people  17 buying and selling it.  <b>18 Q. Did you convey that to the SEC when they</b>  <b>19 asked you about it?</b>  20 MS. D'ALLAIRD: Objection.  21 THE WITNESS: I'm not sure.  22 BY MS. BAILEY:  <b>23 Q. Fair enough. When the SEC reached out to</b>  <b>24 you, why did you -- why did you talk to them?</b>  25 MS. D'ALLAIRD: Objection.</p>
<p style="text-align: right;">Page 26</p> <p><b>1 Kik's sale of Kin tokens in 2017?</b>  2 A. Yes.  <b>3 Q. In the course of any of your discussions</b>  <b>4 with the SEC outside of your investigative testimony</b>  <b>5 which is what you've referred to as your deposition,</b>  <b>6 did they ever show you any documents?</b>  7 A. Did they ever show me any documents?  <b>8 Q. Yeah.</b>  9 A. No. No, I don't think so.  <b>10 Q. Do you recall discussing secondary</b>  <b>11 exchanges with the SEC before your testimony?</b>  12 MS. D'ALLAIRD: Objection.  13 THE WITNESS: Yes. Well, I don't know  14 when the discussion was taken place but now that you  15 mention it there has been a question that SEC has  16 asked at various times regarding did I attempt to  17 resell any Kin tokens.  18 BY MS. BAILEY:  <b>19 Q. Okay.</b>  20 A. So that would be a question about a  21 secondary exchange.  <b>22 Q. Can you recall what you told them about</b>  <b>23 that?</b>  24 A. I would have told them that at some point  25 in I think 2018 I did make a recreational stab at</p>	<p style="text-align: right;">Page 28</p> <p>1 THE WITNESS: Well, I guess I knew that  2 they could subpoena me, so and I felt like my  3 situation was -- I didn't feel there was any risk of  4 talking to them because my dealings with Kik have  5 been so limited and so clean that if I had some more  6 complex dealings with Kik or I thought I would be in  7 legal jeopardy I probably would have gotten a lawyer  8 involved but I didn't mind to talk to them directly.  9 BY MS. BAILEY:  <b>10 Q. And you just referred to your dealings</b>  <b>11 with Kik as being clean. Are you referring to just</b>  <b>12 the fact that you sort of bought this thing from</b>  <b>13 them and now you have the thing and now there's no</b>  <b>14 longer any existing relationship between you and</b>  <b>15 Kik?</b>  16 MS. D'ALLAIRD: Objection.  17 THE WITNESS: Yes.  18 BY MS. BAILEY:  <b>19 Q. And do you still own Kin today?</b>  20 A. Yes.  <b>21 Q. And you don't feel that you have any</b>  <b>22 ongoing business relationship with Kik today?</b>  23 A. Business relationship?  <b>24 Q. Yeah.</b>  25 A. I guess that's sort of a complex issue.</p>

<p style="text-align: right;">Page 29</p> <p>1 If you buy a share of Proctor and Gamble do you have  2 a business relationship with Proctor and Gamble?  3 Not really. You're an investor. To the same extent  4 I'm an investor in these Kin tokens.  5 <b>Q. When you use the term investor I want to</b>  6 <b>understand -- I don't want to quibble about</b>  7 <b>terminology but just to understand what you're</b>  8 <b>referring to as an investor. Are you using that</b>  9 <b>term -- I guess what do you mean by the word</b>  10 <b>"investor"?</b>  11 A. Well, an investor in a cryptocurrency is  12 someone who purchased some of the cryptocurrency and  13 owns it -- I mean, I don't really see it as an  14 important difference between an investor in real  15 estate or an investor in stocks or an investor in a  16 business or investor in gold, platinum.  17 <b>Q. Okay. So the way you're using the term is</b>  18 <b>someone who purchases something --</b>  19 A. Yeah.  20 MS. D'ALLAIRD: Objection. I just have to  21 jump in from time to time before you answer. Thank  22 you. You can go ahead.  23 BY MS. BAILEY:  24 <b>Q. So you're referring to somebody who</b>  25 <b>purchases something?</b></p>	<p style="text-align: right;">Page 31</p> <p>1 MS. D'ALLAIRD: Objection.  2 THE WITNESS: No.  3 BY MS. BAILEY:  4 <b>Q. You testified in the course of the SEC</b>  5 <b>investigation; correct?</b>  6 A. Yes.  7 <b>Q. I'm going to hand you another document.</b>  8 <b>You've just been handed a document that's been</b>  9 <b>marked as Exhibit 105. Do you recognize this</b>  10 <b>document?</b>  11 (Exhibit 105 was marked for identification  12 by the Reporter.)  13 THE WITNESS: Yes.  14 BY MS. BAILEY:  15 <b>Q. What is this?</b>  16 A. This looks like the transcript of my -- is  17 it a deposition or is it -- whatever you're calling  18 it. Or interview, my interview of 2018.  19 <b>Q. Either terminology is fine. When we're</b>  20 <b>saying deposition you're referring to this testimony</b>  21 <b>that you gave on this day. And this was on July 18,</b>  22 <b>2018. Okay. Do you recall if you had a chance to</b>  23 <b>review this transcript after your testimony to</b>  24 <b>approve its contents?</b>  25 A. I don't recall either way.</p>
<p style="text-align: right;">Page 30</p> <p>1 MS. D'ALLAIRD: Objection.  2 THE WITNESS: I'm using it in a very broad  3 sense, yes.  4 BY MS. BAILEY:  5 <b>Q. So could buying a house be an investment</b>  6 <b>in your view?</b>  7 MS. D'ALLAIRD: Objection.  8 THE WITNESS: Yes.  9 BY MS. BAILEY:  10 <b>Q. And buying gold is another example of an</b>  11 <b>investment in your view?</b>  12 A. Yes.  13 <b>Q. So have you purchased houses -- a house</b>  14 <b>before?</b>  15 A. Yes.  16 <b>Q. In your experience did that transaction</b>  17 <b>have to be registered with the Securities and</b>  18 <b>Exchange Commission?</b>  19 MS. D'ALLAIRD: Objection.  20 THE WITNESS: No.  21 BY MS. BAILEY:  22 <b>Q. Have you ever bought gold before?</b>  23 A. Yes.  24 <b>Q. Did you register that transaction with the</b>  25 <b>Securities and Exchange Commission?</b></p>	<p style="text-align: right;">Page 32</p> <p>1 <b>Q. Have you ever seen this document before?</b>  2 A. I don't know.  3 <b>Q. Fair enough. You can set that down. So</b>  4 <b>I'd like to talk a little bit about your background</b>  5 <b>and professional -- your professional background and</b>  6 <b>then I think we can go to a break after we're done</b>  7 <b>with this section. So did you graduate from</b>  8 <b>college?</b>  9 A. I did.  10 <b>Q. Where did you go to college?</b>  11 A. Oberlin College.  12 <b>Q. What did you major in?</b>  13 A. I majored in history.  14 <b>Q. And what did you do after college?</b>  15 A. I worked for an art dealer and I -- my  16 main career for the ten years following that was as  17 a songwriter and I eventually had my own record  18 label and in 2008 I switched -- I kind of evolved  19 into having a software company which is my main  20 project now, software company and a website, a  21 website that I run. And so -- and I have my own  22 business.  23 <b>Q. Okay. So I'd like to go through sort of</b>  24 <b>all those. You have a lot of things going on so I'd</b>  25 <b>like to hear about each one of them. So in 2008 you</b></p>

<p style="text-align: right;">Page 33</p> <p>1 started a software company. What is the name of  2 that company?  3 A. Ezvid, E-z-v-i-d.  4 Q. Can you tell me about what that company  5 does?  6 A. Ezvid makes video software for Windows and  7 also we have a web based video creation tool called  8 Ezvid Wikimaker and we run -- and our website has  9 both professionally and user generated content of  10 various kinds and we create a video series which  11 we -- which is also posted on YouTube and Amazon.  12 Q. And do you have a background in web  13 developing?  14 A. Yes. Well, I've -- I didn't originally  15 but I've learned a lot of it in the last five or six  16 years.  17 Q. Did you receive any training or are you  18 completely self-taught?  19 A. Self-taught.  20 Q. So what are some of your other projects  21 outside of Ezvid?  22 A. Nothing particularly notable.  23 Q. So starting back in 2008 until now?  24 A. I've done a variety of different marketing  25 projects on YouTube and different kinds of projects</p>	<p style="text-align: right;">Page 35</p> <p>1 sounds and visual stimulation for EMDR therapy.  2 Q. And we'll be done with these questions  3 soon, I promise. But did you anticipate when you  4 launched it that you would continue building out  5 additional functionality as time went on?  6 MS. D'ALLAIRD: Objection.  7 THE WITNESS: No.  8 BY MS. BAILEY:  9 Q. So it was --  10 A. These particular applications were very  11 simple and were kind of like one off.  12 Q. And then you didn't pursue it after two  13 years or so?  14 A. Correct.  15 MS. BAILEY: I think we should take a  16 break right now. We're at a good stopping point.  17 THE VIDEO OPERATOR: We're going off the  18 record. The time is 9:49 A.M.  19 (Recess taken.)  20 THE VIDEO OPERATOR: We're back on the  21 record. The time is 10:02 A.M.  22 MS. D'ALLAIRD: Counsel, just before you  23 begin I just wanted to note for the record that  24 we've agreed to stipulate that objections other than  25 matters to form are preserved.</p>
<p style="text-align: right;">Page 34</p> <p>1 around affiliate marketing and video and that kind  2 of thing.  3 Q. So do you have some knowledge about how  4 these marketing advertising industry operates?  5 A. I have some knowledge. Yes.  6 Q. Have you ever -- have any of your  7 companies ever built a mobile application?  8 A. Yes.  9 Q. Which one?  10 A. Briefly in -- around 2010 or so I started  11 a project to build mobile applications for  12 psychotherapists to use and that only lasted a year  13 or two.  14 Q. Did you ever launch a mobile application?  15 A. Yes. That would be those applications.  16 Q. Was it available for public consumption?  17 A. Yes.  18 Q. Could you walk me through what features  19 that application had when you launched it?  20 A. Is this relevant to the discussion of Kik  21 and Kin?  22 Q. Yeah, it is.  23 A. The application -- the mobile applications  24 for psychotherapists involved keeping a diary for  25 those in DBT therapy and also the generation of</p>	<p style="text-align: right;">Page 36</p> <p>1 MS. BAILEY: Yes.  2 MS. D'ALLAIRD: Thank you.  3 BY MS. BAILEY:  4 Q. Okay. So the next thing I want to talk  5 about is just to get an understanding of your  6 knowledge of the cryptocurrency space. It will be  7 helpful going forward. What is the first time you  8 remember ever purchasing cryptocurrency?  9 A. Probably 2013.  10 Q. Do you remember what the first  11 cryptocurrency you bought was?  12 A. Bitcoin.  13 Q. Would you say you're generally familiar  14 with the cryptocurrency market?  15 A. Generally, yes.  16 Q. Do you typically follow it -- do you  17 follow the prices as they go up and down?  18 A. Yes.  19 Q. And do you look at sort of trends in the  20 industry generally?  21 A. Generally.  22 Q. Is that something that you started doing  23 as early as 2013?  24 A. Yes.  25 Q. Have you done it pretty much continuously</p>

<p style="text-align: right;">Page 37</p> <p>1 up through the present?</p> <p>2 A. Yes.</p> <p>3 Q. And that would include 2017?</p> <p>4 A. Uh-huh.</p> <p>5 Q. That's a yes?</p> <p>6 A. Yes.</p> <p>7 Q. How did you first buy your first Bitcoin?</p> <p>8 A. Probably on Coinbase.</p> <p>9 Q. And Coinbase is a secondary exchange for</p> <p>10 cryptocurrencies?</p> <p>11 A. Yes.</p> <p>12 Q. Can you approximate how many</p> <p>13 cryptocurrencies you've ever purchased? And by</p> <p>14 cryptocurrencies I mean different kinds of</p> <p>15 cryptocurrency.</p> <p>16 A. Maybe 20. Maybe -- somewhere between 20</p> <p>17 and 30 probably.</p> <p>18 Q. And did you buy -- how many of those did</p> <p>19 you buy on the secondary market?</p> <p>20 A. I guess all of them expect possibly for</p> <p>21 Kin.</p> <p>22 Q. So you said possibly. Is there a</p> <p>23 possibility you bought Kin on the secondary market</p> <p>24 at some point?</p> <p>25 A. No. I didn't buy Kin on the secondary</p>	<p style="text-align: right;">Page 39</p> <p>1 have.</p> <p>2 Q. It's just helpful for me to understand</p> <p>3 your background. I know it seems funny but when you</p> <p>4 saw -- I guess I should ask this. Do you recall in</p> <p>5 2017 when cryptocurrency prices were going up?</p> <p>6 A. Yes.</p> <p>7 Q. Are you familiar with that time in the</p> <p>8 market?</p> <p>9 A. Yes.</p> <p>10 Q. And is that -- when the prices of</p> <p>11 cryptocurrencies generally are trending upward, does</p> <p>12 that suggest to you that you should purchase</p> <p>13 cryptocurrencies?</p> <p>14 MS. D'ALLAIRD: Objection.</p> <p>15 THE WITNESS: No. I purchase -- making a</p> <p>16 purchase decision based on -- because there's a</p> <p>17 bubble in progress does not seem like the right way</p> <p>18 to make a purchase decision.</p> <p>19 BY MS. BAILEY:</p> <p>20 Q. Did you ever purchase cryptocurrency with</p> <p>21 the hope that some day the market would trend</p> <p>22 upward?</p> <p>23 A. Yes.</p> <p>24 Q. How did you evaluate the potential of a</p> <p>25 given token before purchasing it?</p>
<p style="text-align: right;">Page 38</p> <p>1 market. The only Kin I bought was during the ICO.</p> <p>2 Q. And again, I will probably use the term</p> <p>3 TDE to refer to Kik's 2017 sale of Kin tokens just</p> <p>4 because that's what comes naturally but just so I</p> <p>5 understand when you use the term ICO, are you</p> <p>6 talking about Kik's 2017 public sale of Kin's</p> <p>7 tokens?</p> <p>8 A. Yes.</p> <p>9 Q. Why did you first start buying</p> <p>10 cryptocurrencies?</p> <p>11 A. Because I thought that they could be a</p> <p>12 good investment.</p> <p>13 Q. And that included Bitcoin?</p> <p>14 A. Yes.</p> <p>15 Q. Could you elaborate what you mean by that?</p> <p>16 MS. D'ALLAIRD: Objection.</p> <p>17 THE WITNESS: How could I elaborate on</p> <p>18 that?</p> <p>19 BY MS. BAILEY:</p> <p>20 Q. Fair enough. Why did you think it would</p> <p>21 be a good investment?</p> <p>22 A. Well, there's a lot of reasons why</p> <p>23 cryptocurrencies could be and can be useful. I</p> <p>24 mean, I could go through them now but I don't have</p> <p>25 any particular insight on this that anyone doesn't</p>	<p style="text-align: right;">Page 40</p> <p>1 A. Well, I guess it depends on the token.</p> <p>2 But in the case of Kin I evaluated it as I said to</p> <p>3 the SEC based on the seeming fact that the company</p> <p>4 issuing the token had a user base and an existing</p> <p>5 application and I thought that their proposed use</p> <p>6 case of a cryptocurrency that could be traded</p> <p>7 amongst people in a chat setting was a good use case</p> <p>8 and was likely or at least possible to find product</p> <p>9 market fit or whatever they call it.</p> <p>10 Q. I promise we're going to talk more about</p> <p>11 Kin in a second here but typically before Kin was it</p> <p>12 your practice to research any materials that you</p> <p>13 could find online based on other cryptocurrencies</p> <p>14 you were purchasing on the secondary market?</p> <p>15 MS. D'ALLAIRD: Objection.</p> <p>16 THE WITNESS: That's a pretty vague</p> <p>17 question. Yes, I did research and yes, the research</p> <p>18 was on the Internet.</p> <p>19 BY MS. BAILEY:</p> <p>20 Q. I'll clarify my question. Did you ever</p> <p>21 look for materials on the Internet related to a</p> <p>22 given cryptocurrency before purchasing it?</p> <p>23 A. Yes.</p> <p>24 Q. What types of materials did you look for?</p> <p>25 A. Well, in some cases I looked at the code.</p>



<p style="text-align: right;">Page 41</p> <p>1 If there was a public GitHub repository. GitHub is  2 a place where open source code is shared with the  3 world and certain cryptocurrencies have publicly  4 available code that can be reviewed. That's some of  5 the research I might have done.  6 <b>Q. Did you typically look up the white papers</b>  7 <b>associated with these projects?</b>  8 A. No.  9 <b>Q. So how did you first hear about Kik?</b>  10 A. Well, it looks like from this I got an  11 e-mail from my brother, although I probably -- I  12 probably -- I don't know if I heard about it from  13 him first or I read about it on a website like  14 CoinDesk or another crypto blog.  15 <b>Q. So before we get to this e-mail from your</b>  16 <b>brother which I want to ask about as well, before</b>  17 <b>even then had you ever heard of Kik, the company?</b>  18 A. Yes.  19 <b>Q. Had you ever used Kik before?</b>  20 A. No.  21 <b>Q. Did you know at that time who Kik's CEO</b>  22 <b>was?</b>  23 A. I wouldn't have known that by heart, no.  24 <b>Q. I should probably clarify my question.</b>  25 <b>Before you bought Kin in the TDE so leading up to</b></p>	<p style="text-align: right;">Page 43</p> <p>1 <b>alluded to this but if you can remember had you ever</b>  2 <b>discussed Kik or Kin with Tony before he sent this</b>  3 <b>e-mail to you?</b>  4 A. I don't know.  5 <b>Q. So what I'm trying to do here is pinpoint</b>  6 <b>when about you first started looking into the Kin</b>  7 <b>project. Is it fair to say that August 23 would</b>  8 <b>have been around the time you first started looking</b>  9 <b>into Kin?</b>  10 A. I can't tell you for sure.  11 <b>Q. Would it be possible that you could have</b>  12 <b>heard about it much, much prior to that?</b>  13 A. Yes.  14 <b>Q. And did you start conducting research on</b>  15 <b>Kin before Tony sent you this e-mail?</b>  16 A. I don't know.  17 <b>Q. I know it's been a long time and I</b>  18 <b>appreciate you bearing with me. So outside of this</b>  19 <b>exchange can you specifically remember any</b>  20 <b>discussions with Tony that you had about Kin?</b>  21 A. No.  22 <b>Q. And if we go down a little bit on the page</b>  23 <b>there's an e-mail from Alexander Perls, that's you;</b>  24 <b>correct?</b>  25 A. Uh-huh, yes. That's me.</p>
<p style="text-align: right;">Page 42</p> <p>1 <b>then did you ever know who Kik's CEO was?</b>  2 A. I mean, first of all let me go back to a  3 prior question about whether I read the white paper.  4 It is likely that I did skim the Kin white paper.  5 <b>Q. The Kin white paper?</b>  6 A. Yes. I may have looked at other -- looked  7 at, not read in detail -- I've looked at other white  8 papers of other tokens that I may have invested in.  9 Your last question was did I know who the CEO was.  10 Yes, I guess I did -- I mean I knew his name.  11 <b>Q. You did?</b>  12 A. Probably, yes.  13 <b>Q. Was he somebody who you were following in</b>  14 <b>the space?</b>  15 A. No.  16 <b>Q. Now, I'd love to talk about this e-mail</b>  17 <b>from Tony Rousmaniere. Is that your brother?</b>  18 A. Yes.  19 <b>Q. I'll direct you to what has been marked as</b>  20 <b>Exhibit 104. So there's a message at the very top</b>  21 <b>of the page from Tony Rousmaniere that appears to be</b>  22 <b>dated August 23, 2017 to Alexander. Is that you?</b>  23 A. Yes.  24 <b>Q. And all it has in this e-mail appears to</b>  25 <b>be just a link to Kin.Kik.com. You had already</b></p>	<p style="text-align: right;">Page 44</p> <p>1 <b>Q. And then you say I'm going to put</b>  2 <b>\$50,000 -- 50K into it?</b>  3 A. Uh-huh.  4 <b>Q. So is this approximately the time when you</b>  5 <b>decided to put \$50,000 into the Kin project?</b>  6 MS. D'ALLAIRD: Objection. Go ahead.  7 THE WITNESS: Yes, likely because as I  8 remember the actual purchase of the Kin happened  9 soon thereafter, like maybe -- I think maybe it was  10 in September -- I know it was September or October.  11 Right around then so that date looks familiar.  12 BY MS. BAILEY:  13 <b>Q. Just to summarize, you're not sure exactly</b>  14 <b>when you first heard about Kin or first started</b>  15 <b>researching it, but was this around the time you</b>  16 <b>decided to purchase Kin?</b>  17 A. Yes.  18 <b>Q. And Tony says, "Yeah, me too." Do you</b>  19 <b>know if he ever purchased Kin?</b>  20 A. My understanding is that he did not.  21 <b>Q. Can you recall specifically any documents</b>  22 <b>that you reviewed before purchasing Kin?</b>  23 A. I can't remember in specific if I reviewed  24 any. But it's likely that I did look at the white  25 paper and looked at their website.</p>

<p style="text-align: right;">Page 45</p> <p>1 Q. So do you recall -- I'll start with this.  2 Do you recall clicking on the link to Kin.Kik.com  3 that Tony sent in this e-mail?  4 A. I don't recall clicking on that link that  5 day but it's likely that I did visit that website at  6 some point.  7 Q. So you would expect that you visited  8 Kin.Kik.com at some point?  9 A. Yes.  10 Q. Did you review any of Kik's financial  11 statements before buying Kin?  12 MS. D'ALLAIRD: Objection.  13 THE WITNESS: No.  14 BY MS. BAILEY:  15 Q. Did you ever ask for them?  16 A. No.  17 Q. So you've been just handed a document  18 that's labeled 106. Are you familiar with the  19 Wayback Machine?  20 A. I am.  21 (Exhibit 106 was marked for identification  22 by the Reporter.)  23 BY MS. BAILEY:  24 Q. So I'll represent to you this is a screen  25 grab from the Wayback Machine as you can see in the</p>	<p style="text-align: right;">Page 47</p> <p>1 MS. D'ALLAIRD: Objection.  2 THE WITNESS: I don't remember.  3 BY MS. BAILEY:  4 Q. So do you see on the very first page  5 there's a portion at the bottom right that says "Our  6 vision." Do you see that now?  7 A. Yes.  8 Q. If you want to take a minute to read it --  9 A. Okay.  10 Q. Do you recall reading this at the time  11 when you went to this website?  12 A. I do not recall in specific.  13 Q. Was this consistent with what your  14 understanding was as the vision of Kin tokens as you  15 understood it?  16 MS. D'ALLAIRD: Objection.  17 THE WITNESS: Yes.  18 BY MS. BAILEY:  19 Q. And I would like to hear about what your  20 understanding of the Kin vision was. So if you have  21 an understanding of what your beliefs were about  22 what the vision for Kin was when you purchased Kin?  23 MS. D'ALLAIRD: Objection.  24 THE WITNESS: That this token would be  25 used on their chat application and people would be</p>
<p style="text-align: right;">Page 46</p> <p>1 upper corner from the Kin.Kik.com website. This  2 screen grab was taken from the date September 1,  3 2017 as you can see in the middle of the top there.  4 So I'm just trying to see if you recall --  5 MS. D'ALLAIRD: Excuse me. I'll lodge an  6 objection to this exhibit. Go ahead.  7 BY MS. BAILEY:  8 Q. I'm trying to understand whether this is  9 the page that you viewed when you might have clicked  10 on that link around that time?  11 MS. D'ALLAIRD: Objection.  12 THE WITNESS: Yes, it seems likely.  13 BY MS. BAILEY:  14 Q. Does this page look familiar to you?  15 A. It does look vaguely familiar.  16 Q. Do you remember now that you're seeing it  17 clicking on any of the links on this page or the  18 following page?  19 MS. D'ALLAIRD: Objection.  20 THE WITNESS: I don't remember in specific  21 if I did or not.  22 BY MS. BAILEY:  23 Q. And how about the last page of this? It  24 says 3 out of 3. Do you remember clicking on any of  25 these articles?</p>	<p style="text-align: right;">Page 48</p> <p>1 exchanging these tokens and they would serve as an  2 incentive for whatever kind of activity people would  3 be doing on this chat application.  4 BY MS. BAILEY:  5 Q. So is it your understanding -- I guess  6 I'll rephrase. Was it your understanding before you  7 purchased Kin that Kin could only be used on the  8 chat application?  9 MS. D'ALLAIRD: Objection.  10 THE WITNESS: I didn't consider that  11 issue. I don't think I had an opinion either way.  12 By nature -- for example, if this was running, which  13 it was at the time, on the Ethereum network it  14 seems, there really isn't a way to restrict the  15 usage of cryptocurrencies to just one application.  16 It's like saying TCP/IP is protocol in which data is  17 transferred over the Internet. It built into  18 TCP/IP -- there is not -- built into that protocol  19 any method for preventing other people to use --  20 preventing certain applications from using it or not  21 using it, nor to prevent the usage of something like  22 a protocol, that's when you get into the worlds of  23 DRM, digital rights management, which are meant to  24 restrict the usage -- anyway, the Kin token, if I  25 had read this at the time it would make sense</p>



<p style="text-align: right;">Page 49</p> <p>1 because I would have thought oh, yes, they're going  2 to use this token on the chat application but it's  3 decentralized so anyone can use it on any  4 application. It all sounds reasonable to me.  5 BY MS. BAILEY:  6 <b>Q. Can you recall if the Kin token code was</b>  7 <b>open source at the time?</b>  8 MS. D'ALLAIRD: Objection.  9 THE WITNESS: I can't recall.  10 BY MS. BAILEY:  11 <b>Q. So you don't recall reviewing the code for</b>  12 <b>Kin?</b>  13 MS. D'ALLAIRD: Objection.  14 THE WITNESS: I don't think I reviewed it.  15 BY MS. BAILEY:  16 <b>Q. So just to drill down a little bit on what</b>  17 <b>you just said, so you testified earlier that it's</b>  18 <b>your memory that Kin was run on the Ethereum</b>  19 <b>blockchain when it was launched. Is your</b>  20 <b>understanding of tokens that run on the Ethereum</b>  21 <b>blockchain that they can be integrated into any app</b>  22 <b>that people choose?</b>  23 MS. D'ALLAIRD: Objection.  24 THE WITNESS: Yes.  25 ///</p>	<p style="text-align: right;">Page 51</p> <p>1 about it and I thought that then they were going to  2 probably -- to migrate Kin to another blockchain,  3 now that I think about it. And we were investing in  4 this thing that you would then trade in for the real  5 Kin which would come out on a different blockchain.  6 BY MS. BAILEY:  7 <b>Q. Do you remember learning that information</b>  8 <b>before you bought Kin in the TDE or after?</b>  9 A. I don't recall when I learned that.  10 <b>Q. Was that a significant consideration for</b>  11 <b>you before you purchased Kin?</b>  12 MS. D'ALLAIRD: Objection.  13 THE WITNESS: Was what --  14 BY MS. BAILEY:  15 <b>Q. You described this understanding that Kin</b>  16 <b>would ultimately be migrated onto a new blockchain,</b>  17 <b>but you told me you couldn't remember one way or the</b>  18 <b>other whether you had known that information before</b>  19 <b>the TDE. I'm trying to understand whether that</b>  20 <b>concept of whether Kin would be migrated to a new</b>  21 <b>blockchain was important to you or a substantial</b>  22 <b>consideration for you before you bought Kin in the</b>  23 <b>TDE.</b>  24 MS. D'ALLAIRD: Objection.  25 THE WITNESS: Probably it was not</p>
<p style="text-align: right;">Page 50</p> <p>1 BY MS. BAILEY:  2 <b>Q. And then when that occurs -- I know you</b>  3 <b>spoke about this a bit ago but walk me through, do</b>  4 <b>the nodes validate that transaction on the Ethereum</b>  5 <b>blockchain?</b>  6 A. Yes.  7 <b>Q. And to your understanding that process is</b>  8 <b>decentralized in nature?</b>  9 MS. D'ALLAIRD: Objection.  10 THE WITNESS: Well, with Ethereum it's a  11 little tricky because Ethereum is not as  12 decentralized as it should be and the actual -- I  13 haven't looked into this stuff in a few months  14 really, but when I last left Ethereum is that they  15 have these super nodes and there's only certain  16 nodes that can validate everything. But in general  17 the idea with Bitcoin and the hope with Ethereum is  18 to have a network where yes, a transaction can be  19 independently verified in a decentralized fashion.  20 When I say I didn't -- now that you  21 mention -- now that I'm recalling that it was built  22 on Ethereum I think that they were issuing the token  23 on the Ethereum network so I did know a little bit  24 at that point about the Ethereum network. Not as  25 much as I learned later but I knew a little bit</p>	<p style="text-align: right;">Page 52</p> <p>1 something I thought about too much.  2 BY MS. BAILEY:  3 <b>Q. Okay. When I'm asking questions just make</b>  4 <b>sure you let me get the full question out and let</b>  5 <b>her lodge her objection.</b>  6 <b>Are you familiar with the concept called</b>  7 <b>peer-to-peer transactions?</b>  8 A. Yes.  9 <b>Q. Is it your understanding that</b>  10 <b>cryptocurrencies that are available on Ethereum can</b>  11 <b>be transacted or traded peer to peer?</b>  12 MS. D'ALLAIRD: Objection.  13 THE WITNESS: Technically I'm a little  14 vague on that because the -- I think it's common to  15 refer to cryptocurrencies as peer to peer. Yes,  16 they're peer to peer. They go through nodes that --  17 it's not like you directly transfer any kind of  18 cryptocurrency from person to person. It all has to  19 go through a node. But I think it's commonly  20 referred to as peer to peer because it's not like  21 it's going through a trusted authority.  22 BY MS. BAILEY:  23 <b>Q. That's a good point. You probably know a</b>  24 <b>lot more than I do about what peer to peer means so</b>  25 <b>can you explain to me what your understanding of</b></p>

<p style="text-align: right;">Page 53</p> <p>1 <b>that term is?</b></p> <p>2 A. Well, a true peer to peer would be more</p> <p>3 like file sharing protocols and like say for example</p> <p>4 torrents where you're just broadcasting the</p> <p>5 availability of something on a certain protocol and</p> <p>6 port and you're allowing those ports to be open to</p> <p>7 the Internet so they can be scanned. Whereas with</p> <p>8 cryptocurrency I don't think that it's -- you</p> <p>9 communicate with a node and that node communicates</p> <p>10 with other nodes and those other nodes communicate</p> <p>11 with other users.</p> <p>12 So it's like you, your nodes and another</p> <p>13 user, whereas I think true peer to peer would be</p> <p>14 just me communicating with other users without even</p> <p>15 centralized nodes at all. Does that help?</p> <p>16 <b>Q. Yeah. That's helpful. So I guess let's</b></p> <p>17 <b>set aside the definition of peer to peer and I guess</b></p> <p>18 <b>my question is really whether on the Ethereum</b></p> <p>19 <b>blockchain it's capable for one cryptocurrency owner</b></p> <p>20 <b>to transfer that cryptocurrency to the wallet of</b></p> <p>21 <b>somebody else or another company?</b></p> <p>22 MS. D'ALLAIRD: Objection.</p> <p>23 THE WITNESS: It is possible. That's the</p> <p>24 point of -- yes, cryptocurrencies.</p> <p>25 ///</p>	<p style="text-align: right;">Page 55</p> <p>1 BY MS. BAILEY:</p> <p>2 <b>Q. So the last question on this document</b></p> <p>3 <b>Exhibit 106 is -- I know it's not printed very well</b></p> <p>4 <b>but at the very bottom of page 1 it says, "The</b></p> <p>5 <b>introduction of Kin" in a blue box. It says,</b></p> <p>6 <b>"Envisioned as a general purpose cryptocurrency for</b></p> <p>7 <b>use in every day digital services." And then it</b></p> <p>8 <b>continues on.</b></p> <p>9 A. I see that.</p> <p>10 <b>Q. What does that mean to you?</b></p> <p>11 A. Not very much. I mean you can envision</p> <p>12 anything.</p> <p>13 <b>Q. But the terminology general -- general</b></p> <p>14 <b>purpose cryptocurrency for use in every day digital</b></p> <p>15 <b>services. What does that mean to you?</b></p> <p>16 A. It means very little because at this time</p> <p>17 you could have found 10,000 people -- businesses or</p> <p>18 individuals who were creating cryptocurrencies,</p> <p>19 especially on the Ethereum network where currency</p> <p>20 can be made very easily, who would all be saying the</p> <p>21 same thing. They're creating a general purpose</p> <p>22 cryptocurrency that everyone is going to use every</p> <p>23 day. So it doesn't mean much I don't think.</p> <p>24 <b>Q. Did you perceive Kin to be set apart from</b></p> <p>25 <b>those other projects when you purchased it?</b></p>
<p style="text-align: right;">Page 54</p> <p>1 BY MS. BAILEY:</p> <p>2 <b>Q. So was that true of Kin when you received</b></p> <p>3 <b>it?</b></p> <p>4 MS. D'ALLAIRD: Objection.</p> <p>5 THE WITNESS: It must have been since it</p> <p>6 went from them to my Ethereum wallet.</p> <p>7 BY MS. BAILEY:</p> <p>8 <b>Q. And at that point could you have sent it</b></p> <p>9 <b>to another Ethereum wallet?</b></p> <p>10 MS. D'ALLAIRD: Objection.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MS. BAILEY:</p> <p>13 <b>Q. So if I for example told you at that time</b></p> <p>14 <b>I will sell you a sandwich for 100 Kin if you</b></p> <p>15 <b>transfer me 100 Kin to my Ethereum wallet, could</b></p> <p>16 <b>that transaction have taken place?</b></p> <p>17 MS. D'ALLAIRD: Objection.</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MS. BAILEY:</p> <p>20 <b>Q. So I mean, sandwich is kind of a silly</b></p> <p>21 <b>example but could that have been the case with</b></p> <p>22 <b>virtually anything I wanted to sell you at the time?</b></p> <p>23 MS. D'ALLAIRD: Objection.</p> <p>24 THE WITNESS: Yes.</p> <p>25 ///</p>	<p style="text-align: right;">Page 56</p> <p>1 MS. D'ALLAIRD: Objection.</p> <p>2 THE WITNESS: Set apart? Not technically</p> <p>3 but set apart that there was an existing business</p> <p>4 and an existing -- hopefully an existing group of</p> <p>5 people who could start using the thing.</p> <p>6 BY MS. BAILEY:</p> <p>7 <b>Q. Is it fair to say that you thought Kin had</b></p> <p>8 <b>a better chance of actually achieving the goal of</b></p> <p>9 <b>becoming a cryptocurrency for use in everyday</b></p> <p>10 <b>digital services than others?</b></p> <p>11 MS. D'ALLAIRD: Objection.</p> <p>12 THE WITNESS: Yes.</p> <p>13 BY MS. BAILEY:</p> <p>14 <b>Q. So if reading this today would you agree</b></p> <p>15 <b>that Kin was marketed as a tool to be used for</b></p> <p>16 <b>consumptive use?</b></p> <p>17 MS. D'ALLAIRD: Objection.</p> <p>18 THE WITNESS: A tool to be used for</p> <p>19 consumptive -- what does that mean?</p> <p>20 BY MS. BAILEY:</p> <p>21 <b>Q. I should rephrase the question. Was Kin</b></p> <p>22 <b>marketed as a currency to be used consumptively for</b></p> <p>23 <b>digital services?</b></p> <p>24 MS. D'ALLAIRD: Objection.</p> <p>25 THE WITNESS: Was it marketed as that?</p>

<p style="text-align: right;">Page 57</p> <p>1 BY MS. BAILEY:  2 <b>Q. Uh-huh.</b>  3 A. I mean -- I mean yes, I guess so because  4 there would be users in their application and maybe  5 other people would write applications that would use  6 it and then you would be able to buy things. Like  7 you would be able to trade it over the chat system.  8 <b>Q. Okay. Thank you. I'm not trying to be</b>  9 <b>cute with my words or anything. I'm just trying to</b>  10 <b>find out if you thought it would be used in digital</b>  11 <b>services?</b>  12 MS. D'ALLAIRD: Objection.  13 THE WITNESS: Yes.  14 BY MS. BAILEY:  15 <b>Q. Was it your understanding then that people</b>  16 <b>would be using Kin after they received it?</b>  17 MS. D'ALLAIRD: Objection.  18 THE WITNESS: That's too vague. Can you  19 narrow that question a bit?  20 BY MS. BAILEY:  21 <b>Q. Sure. Were you hoping as somebody who</b>  22 <b>purchased Kin that people would use it after they</b>  23 <b>received it?</b>  24 MS. D'ALLAIRD: Objection.  25 THE WITNESS: Depends on what you mean by</p>	<p style="text-align: right;">Page 59</p> <p>1 there was a small chance that in the future it would  2 be used widely.  3 BY MS. BAILEY:  4 <b>Q. We discussed this earlier but it was</b>  5 <b>possible on day one when people received it for</b>  6 <b>people to transact with it; right?</b>  7 MS. D'ALLAIRD: Objection.  8 THE WITNESS: I think I interpreted your  9 question as would it be widely used. When I  10 purchased it I thought it was likely to be used at  11 least once for somebody to do a test transaction  12 with, yes.  13 BY MS. BAILEY:  14 <b>Q. So what you were testifying to in response</b>  15 <b>to my question earlier was assuming I meant that</b>  16 <b>would this be widely used in large scale fashion.</b>  17 <b>So what I'm actually just trying to get at is a lot</b>  18 <b>more simple than that. Do you think people would</b>  19 <b>use Kin for transacting for digital services in any</b>  20 <b>capacity when you bought it at some point?</b>  21 MS. D'ALLAIRD: Objection.  22 THE WITNESS: Yes.  23 BY MS. BAILEY:  24 <b>Q. So I'd like to -- actually before I move</b>  25 <b>on can you recall watching any videos before you</b></p>
<p style="text-align: right;">Page 58</p> <p>1 use.  2 BY MS. BAILEY:  3 <b>Q. So were you hoping that people who</b>  4 <b>received Kin in the token sale, the TDE or ICO,</b>  5 <b>would use it to transact for various digital</b>  6 <b>services within the chat application or anything</b>  7 <b>else?</b>  8 MS. D'ALLAIRD: Objection.  9 THE WITNESS: Yes.  10 BY MS. BAILEY:  11 <b>Q. Did you expect that people would use it</b>  12 <b>for those purposes?</b>  13 MS. D'ALLAIRD: Objection.  14 THE WITNESS: Expect is too strong a word  15 for a very -- the word isn't risky. There's another  16 word that's like risky -- speculative investment.  17 BY MS. BAILEY:  18 <b>Q. So you can use whatever word is</b>  19 <b>comfortable. But I'm trying to get at whether you</b>  20 <b>believed at that time when you purchased Kin that it</b>  21 <b>would ultimately be something people used to buy and</b>  22 <b>sell digital services?</b>  23 MS. D'ALLAIRD: Objection.  24 THE WITNESS: Because the investment was  25 so speculative at the time I would have thought</p>	<p style="text-align: right;">Page 60</p> <p>1 <b>purchased Kin relating to Kin?</b>  2 A. No.  3 <b>Q. How about reading any medium posts maybe?</b>  4 A. I may have skimmed one.  5 <b>Q. Did anything jump out at you as something</b>  6 <b>you relied on for making your purchase?</b>  7 A. No.  8 <b>Q. Can you recall listening to any podcasts</b>  9 <b>about Kin before you purchased it?</b>  10 A. No.  11 <b>Q. How about do you follow any social media</b>  12 <b>channels that relate to Kin?</b>  13 A. No.  14 <b>Q. And you didn't in 2017 either?</b>  15 A. Correct.  16 <b>Q. So you didn't rely on anything you saw in</b>  17 <b>video clips or a podcast interview or medium</b>  18 <b>articles or on social media before you bought Kin.</b>  19 A. It's possible I might have skimmed a  20 medium article and, as I said, read a few articles  21 in Coinbase and I probably looked at the white  22 paper. I probably looked at this website, but  23 nothing else comes to mind.  24 <b>Q. So just to put a finer point on that is it</b>  25 <b>fair to say at least in deciding to purchase Kin you</b></p>

<p style="text-align: right;">Page 61</p> <p><b>1 did not rely on any videos or speeches that you saw</b>  <b>2 involving Kik's CEO?</b>  3 MS. D'ALLAIRD: Objection.  4 THE WITNESS: I don't think that I did.  5 BY MS. BAILEY:  <b>6 Q. Okay. So now I just want to talk about</b>  <b>7 some of the nuts and bolts of your purchase of Kin.</b>  <b>8 I think you've already been over this but do you</b>  <b>9 recall approximately how much Kin you purchased in</b>  <b>10 the token sale?</b>  11 A. I keep forgetting how much it was but the  12 SEC at one point reminded me and that seems to be  13 correct.  <b>14 Q. \$50,000 seems to be correct?</b>  15 A. That seems correct.  <b>16 Q. Did you ever purchase more Kin after the</b>  <b>17 TDE?</b>  18 A. I vaguely remember that there was -- I  19 don't think so, but I vaguely remember that like it  20 didn't sell out or something so there was like more  21 left over and then I -- I don't think I did. I  22 think I -- maybe I was -- I can't remember. No, I  23 think there was just like this one instance where I  24 sent some Ethereum and that was it.  <b>25 Q. But you didn't purchase any on secondary</b></p>	<p style="text-align: right;">Page 63</p> <p><b>1 the sale?</b>  2 A. I can't remember. But clearly I invested  3 more than that, didn't I, so I must have waited  4 until the cap was raised.  <b>5 Q. So where it says "Wednesday, September 13"</b>  <b>6 it says, "The maximum participation cap will be</b>  <b>7 incrementally raised over the first hour and then</b>  <b>8 removed."</b>  9 A. That seems likely that that's what I did.  10 I mean, I waited until then or something like that.  <b>11 Q. So going back to the beginning of this</b>  <b>12 section it says, "In order to enable as many people</b>  <b>13 to participate." Was that something that you</b>  <b>14 remember hearing from Kik about the token sale, that</b>  <b>15 it's goal was to enable people -- as many people as</b>  <b>16 possible to participate in the sale?</b>  17 MS. D'ALLAIRD: Objection.  18 THE WITNESS: If I heard it I mean, that  19 statement has no meaning. It's like Coke makes you  20 happy. That is what you would say when you were  21 running an ICO obviously.  22 BY MS. BAILEY:  <b>23 Q. Couldn't one say we want as much money as</b>  <b>24 we can possibly get?</b>  25 A. That would be poor marketing.</p>
<p style="text-align: right;">Page 62</p> <p><b>1 markets -- or secondary exchanges? Sorry.</b>  2 A. No, I did not.  <b>3 Q. Do you recall there being any caps on the</b>  <b>4 amount that you were allowed to purchase?</b>  5 A. It seems likely.  <b>6 Q. So I can direct you to if we go back to</b>  <b>7 Exhibit 104 on page with the Bates label 0000004.</b>  <b>8 It's the second page on the back. Is this an e-mail</b>  <b>9 you produced to the SEC?</b>  10 A. Yes.  <b>11 Q. So if you see about four or five lines</b>  <b>12 down it says, "The TDE will be capped at 75,000,000.</b>  <b>13 In order to enable as many people to participate we</b>  <b>14 will have two phases of the TDE," and then it goes</b>  <b>15 on to describe what the two phases are.</b>  16 A. Right.  <b>17 Q. Does that refresh your recollection as to</b>  <b>18 what the purchase caps were?</b>  19 A. Yes.  <b>20 Q. So in the line beginning with the word</b>  <b>21 "Tuesday" it says, "For the first 24 hours each</b>  <b>22 registered individual will be able to purchase up to</b>  <b>23 \$4,393."</b>  24 A. Yes.  <b>25 Q. Were you aware of that cap at the time of</b></p>	<p style="text-align: right;">Page 64</p> <p><b>1 Q. That's fair. With your understanding of</b>  <b>2 how the Kin project would unfold, would it be</b>  <b>3 important to you as a purchaser to know that it was</b>  <b>4 being widely distributed to many, many individuals?</b>  5 MS. D'ALLAIRD: Objection.  6 THE WITNESS: Important. I guess it would  7 be a nice thing.  8 BY MS. BAILEY:  <b>9 Q. Why would that be nice?</b>  10 A. Because with some of these ICOs I -- I  11 guess subsequently learned there was a bunch of very  12 sketchy, possibly illegal presales going on where  13 chunks of it were sold off to the big -- to the  14 whales to begin with and then in order to  15 basically -- and then those people would just turn  16 around and sell it again.  17 And I know that some of the -- some  18 various entrepreneurs have gotten in trouble. I've  19 read they got in trouble for doing that and the  20 SEC -- SEC or someone else said you're not allowed  21 to do that. So if I had learned or learned now that  22 that was the case with Kin and that there were not  23 that many participating then -- yeah, it would not  24 be -- it would not be great a recommendation of the  25 process as a whole.</p>



<p style="text-align: right;">Page 65</p> <p>1 <b>Q. So you're approaching that from the</b>  2 <b>perspective of your understanding that in the past</b>  3 <b>projects in certain -- we've called them whales have</b>  4 <b>gotten in trouble with regulators for that kind of</b>  5 <b>behavior. Is that the perspective that you're</b>  6 <b>coming to that conclusion from?</b>  7 MS. D'ALLAIRD: Objection.  8 THE WITNESS: Yeah, but also that behavior  9 is just -- it's possibly illegal and definitely  10 unethical.  11 BY MS. BAILEY:  12 <b>Q. So if a token is going to be -- I'll use</b>  13 <b>that language again, general use cryptocurrency for</b>  14 <b>digital services would it be important for many</b>  15 <b>people to have it?</b>  16 MS. D'ALLAIRD: Objection.  17 THE WITNESS: Yes.  18 BY MS. BAILEY:  19 <b>Q. Why is that?</b>  20 A. Because if -- there has to be a critical  21 mass of users in order to make something useful as a  22 medium of exchange.  23 <b>Q. So as a purchaser of Kin is it a positive</b>  24 <b>to you that Kik was intending to distribute Kin at</b>  25 <b>least according to this statement here to as many</b></p>	<p style="text-align: right;">Page 67</p> <p>1 it. But that doesn't answer the question of what  2 was really going on and it's possible that -- I'm  3 guessing that it's possible that what may have  4 really been going on is that chunks were being sold  5 off to big investors beforehand with the idea they  6 would flip it quickly back to the suckers.  7 Possibly.  8 I know that happened with other ICOs,  9 maybe it happened with Kin. I don't really know one  10 way or the other but the fact -- what you're  11 pointing out here is like their intention, they're  12 making these noises about it being a broad-based  13 thing literally has no meaning.  14 As I said, it's like marketing materials.  15 It's like Sprite telling you you're going to be  16 active and happy and everyone is going to love you  17 if you drink Sprite. It's just noise. It doesn't  18 mean anything necessarily.  19 BY MS. BAILEY:  20 <b>Q. So what I'm actually trying to get at,</b>  21 <b>setting a cap for the first 24 hours is at least a</b>  22 <b>measure in your view to ensure that there was an</b>  23 <b>opportunity for many people to purchase Kin.</b>  24 MS. D'ALLAIRD: Objection.  25 ///</p>
<p style="text-align: right;">Page 66</p> <p>1 <b>people as possible?</b>  2 MS. D'ALLAIRD: Objection.  3 THE WITNESS: No, because what they  4 intended was part of their like marketing materials.  5 And that intention didn't differ in any substantial  6 way from any of the other zillions of ICOs that were  7 happening at the same time.  8 BY MS. BAILEY:  9 <b>Q. I know you said that you haven't</b>  10 <b>participated in any other ICOs but were you aware of</b>  11 <b>other ICOs that had any individual caps on purchases</b>  12 <b>for any amount of time?</b>  13 MS. D'ALLAIRD: Objection.  14 THE WITNESS: I don't know.  15 BY MS. BAILEY:  16 <b>Q. So you can see that Kik put a cap on</b>  17 <b>individual purchases for 24 hours. Wouldn't that</b>  18 <b>ensure that people who wanted to purchase Kin would</b>  19 <b>have at least the opportunity to within that first</b>  20 <b>24 hours?</b>  21 MS. D'ALLAIRD: Objection.  22 THE WITNESS: I guess that's the -- it's  23 the intention to actually allow a broader base of  24 people to buy it or to make it seem like they were  25 intending to allow a broader base of people to buy</p>	<p style="text-align: right;">Page 68</p> <p>1 BY MS. BAILEY:  2 <b>Q. Is that fair to say?</b>  3 MS. D'ALLAIRD: Objection.  4 THE WITNESS: No because it could be a  5 marketing measure as opposed to a -- the actual  6 effect of it is unknown.  7 BY MS. BAILEY:  8 <b>Q. Let me pose a different hypothetical to</b>  9 <b>you. As somebody who follows the space have you</b>  10 <b>ever heard of these sales that have a cap and then</b>  11 <b>they get bought up instantaneously with a few very,</b>  12 <b>very, very large purchasers? Are you familiar with</b>  13 <b>that concept?</b>  14 MS. D'ALLAIRD: Objection.  15 THE WITNESS: Yes. I'm familiar.  16 BY MS. BAILEY:  17 <b>Q. So would that be possible -- I'll</b>  18 <b>rephrase. Wouldn't it have helped in those</b>  19 <b>situations if purchasers at least within the first</b>  20 <b>24 hours weren't able to buy more than \$4,000 worth</b>  21 <b>because it meant more of the smaller purchasers had</b>  22 <b>a chance to buy some of the cryptocurrency?</b>  23 MS. D'ALLAIRD: Objection.  24 THE WITNESS: Yes, assuming that such a  25 rule was actually followed by the seller of the</p>

<p style="text-align: right;">Page 69</p> <p>1 token. And there weren't other deals that had gone  2 on prior to that or in addition to that. But yes,  3 just as a question of basically economics, if  4 there's a store that's selling some hot new sneaker  5 and they say -- it's kind of like the one per  6 customer thing. Right? I guess that enables more  7 people to go and get the sneakers and make sure that  8 the scalpers don't buy it all up and resell it. As  9 long as that is happening in an honest fashion.  10 BY MS. BAILEY:  11 <b>Q. Do you have any reason to dispute that the</b>  12 <b>caps in the case of the Kin sale were enforced?</b>  13 MS. D'ALLAIRD: Objection.  14 THE WITNESS: I don't have reason to  15 dispute that.  16 BY MS. BAILEY:  17 <b>Q. And on the flip side of that were you</b>  18 <b>aware when you purchased Kin that there was no</b>  19 <b>minimum purchase amount required?</b>  20 MS. D'ALLAIRD: Objection.  21 THE WITNESS: I was not aware.  22 BY MS. BAILEY:  23 <b>Q. Have you ever heard of another project</b>  24 <b>having that structure before?</b>  25 MS. D'ALLAIRD: Objection.</p>	<p style="text-align: right;">Page 71</p> <p>1 BY MS. BAILEY:  2 <b>Q. So in that sense in this case is it your</b>  3 <b>view that that was a marketing ploy?</b>  4 MS. D'ALLAIRD: Objection.  5 THE WITNESS: Marketing ploy?  6 BY MS. BAILEY:  7 <b>Q. I'm not trying to change your terminology.</b>  8 <b>I think earlier you said it was a marketing tool so</b>  9 <b>do you think it was a tool that was used by Kik in</b>  10 <b>this case?</b>  11 MS. D'ALLAIRD: Objection.  12 THE WITNESS: Yes, I guess. That was a  13 feature -- that was part of the feature of the sale,  14 it's possible that to some investors they would have  15 said this is great. There's no floor on it. Which  16 means a lot of people are going to buy into it or  17 something like that.  18 BY MS. BAILEY:  19 <b>Q. Okay. Are you familiar with the term</b>  20 <b>called "micro-transactions"?</b>  21 A. Yes.  22 <b>Q. What does that term mean to you?</b>  23 A. Typically I think it refers to the ability  24 to make purchases for very small amounts of money  25 which when translated into for example US dollars</p>
<p style="text-align: right;">Page 70</p> <p>1 THE WITNESS: I haven't heard either way.  2 BY MS. BAILEY:  3 <b>Q. So what is your takeaway from the fact</b>  4 <b>that people -- there was no minimum purchase</b>  5 <b>requirement?</b>  6 MS. D'ALLAIRD: Objection.  7 THE WITNESS: Theoretically it was part of  8 their marketing tactic to make it -- I mean, so many  9 of the ICOs are going for this idea of scale and  10 show how decentralized it is so one of the marketing  11 tactics that would come along with that might be to  12 say yeah, we're going to have no minimum so the  13 little players can get in and buy little bits of it.  14 BY MS. BAILEY:  15 <b>Q. Are you aware of any other projects that</b>  16 <b>had minimum purchase requirements, meaning you had</b>  17 <b>to buy at least a certain amount of cryptocurrency?</b>  18 MS. D'ALLAIRD: Objection.  19 THE WITNESS: I'm not aware.  20 BY MS. BAILEY:  21 <b>Q. Do you know if it was ever marketed to the</b>  22 <b>public these -- that there was no minimum purchase</b>  23 <b>requirement?</b>  24 MS. D'ALLAIRD: Objection.  25 THE WITNESS: I'm not aware.</p>	<p style="text-align: right;">Page 72</p> <p>1 might be one penny or tenth of a penny or hundredth  2 of a penny or five cents or ten cents. All those  3 figures are values of transactions for which the  4 existing credit cards system does not work very well  5 or work at all.  6 <b>Q. Did you expect that Kin would be used for</b>  7 <b>micro-transactions?</b>  8 A. I didn't -- well, I mean, if the Kin  9 project was going to be successful, if the project  10 on the whole would be successful, yes, I would  11 expect that it would be used for micro-transactions.  12 I just want to reiterate that my expectation of the  13 Kin project was that it would fail because most of  14 these projects did fail and have failed and will  15 fail. So I don't want -- I didn't have an  16 expectation that any of this would happen, but if it  17 were to succeed, I would expect that one of the  18 features of its use would be its usage for  19 micro-transactions.  20 <b>Q. I asked two questions. One, I'd like to</b>  21 <b>understand more about why did you buy Kin if you</b>  22 <b>thought the project would fail?</b>  23 MS. D'ALLAIRD: Objection.  24 THE WITNESS: Because I thought that there  25 was -- there was a chance that it would succeed and</p>



<p style="text-align: right;">Page 73</p> <p>1 the value of Kin would go up exponentially.  2 BY MS. BAILEY:  3 <b>Q. And you focused on the word expectation,</b>  4 <b>and I'm not trying to necessarily ask you about</b>  5 <b>whether you expected that it would be ultimately</b>  6 <b>used at the scale of micropayments that its</b>  7 <b>potential foretold, but I'm trying to understand</b>  8 <b>whether you think that was part of the messaging</b>  9 <b>that Kik had presented to the public about how Kin</b>  10 <b>was a different option for a currency for digital</b>  11 <b>services?</b>  12 MS. D'ALLAIRD: Objection.  13 BY MS. BAILEY:  14 <b>Q. Is that fair to say?</b>  15 MS. D'ALLAIRD: Objection.  16 THE WITNESS: You're asking was part of  17 their messaging the proposal that it would enable  18 micro-transactions, and my answer is yes, that was  19 likely part of their messaging. However, that kind  20 of applies to most cryptocurrency projects.  21 BY MS. BAILEY:  22 <b>Q. So just to --</b>  23 A. If not all; right?  24 <b>Q. Just to circle back, so if people -- there</b>  25 <b>was no minimum requirement, meaning people could buy</b></p>	<p style="text-align: right;">Page 75</p> <p>1 THE VIDEO OPERATOR: We're back on the  2 record. The time is 11:08 A.M.  3 BY MS. BAILEY:  4 <b>Q. So in your view when you purchased Kin how</b>  5 <b>could Kin become successful?</b>  6 MS. D'ALLAIRD: Objection.  7 THE WITNESS: By a lot of people using the  8 Kin token for transactions.  9 BY MS. BAILEY:  10 <b>Q. So just to look at the flip side of that,</b>  11 <b>could the project have succeeded if nobody ever</b>  12 <b>transacted in Kin?</b>  13 MS. D'ALLAIRD: Objection.  14 THE WITNESS: Well, from an investor  15 standpoint yes, I guess it could of. Because if  16 you're an investor you want the value of it to go up  17 and there are plenty of examples of cryptocurrencies  18 that virtually no one uses for any real reason which  19 have gone up in value.  20 BY MS. BAILEY:  21 <b>Q. I want to drill down on that. I think you</b>  22 <b>just said that Kin specifically could only be</b>  23 <b>successful if it was used --</b>  24 A. I would want you to define successful.  25 <b>Q. That's a good point. Earlier you had said</b></p>
<p style="text-align: right;">Page 74</p> <p>1 <b>one dollar worth of Kin tokens, would that be</b>  2 <b>consistent with the ultimate use case for the token</b>  3 <b>being micro-transactions?</b>  4 MS. D'ALLAIRD: Objection.  5 THE WITNESS: I think that's confusing two  6 different things. The first thing you're talking  7 about is, is there a broad based set of retail  8 investors, and the broad base set of retail  9 investors could include people who could only put in  10 ten bucks; right? The second question is in regard  11 to the actual usage, eventual usage of it -- I lost  12 my train of thought here.  13 But no, I don't think that the fact that  14 they had no minimum purchase thing hardly seems  15 related to whether or not it would be used for  16 micro-transactions in the future.  17 BY MS. BAILEY:  18 <b>Q. So your understanding of that is that</b>  19 <b>those two concepts are not related?</b>  20 A. They're not related.  21 MS. BAILEY: We'll take another ten-minute  22 break.  23 THE VIDEO OPERATOR: We're going off the  24 record. The time is 10:53 A.M.  25 (Recess taken.)</p>	<p style="text-align: right;">Page 76</p> <p>1 <b>you didn't expect the project to be successful. I</b>  2 <b>think that was the word you used. If I'm misquoting</b>  3 <b>you tell me. But that's the concept I'm trying to</b>  4 <b>draw out now. What would have to happen for the</b>  5 <b>project to be quote, unquote, successful as a</b>  6 <b>business model in your view?</b>  7 MS. D'ALLAIRD: Objection.  8 THE WITNESS: A business model for the Kik  9 company you mean?  10 BY MS. BAILEY:  11 <b>Q. Or any company that used Kin?</b>  12 MS. D'ALLAIRD: Objection.  13 THE WITNESS: Well, this gets confusing to  14 talk about because most of the money that's been  15 made through cryptocurrencies the vast majority is  16 speculation on currencies, not usage by humans. So  17 I want to walk back my previous statement about it  18 could only be successful if people used it. For an  19 investor and from a company perspective also, I mean  20 the best way to talk about this is by maybe another  21 example in the same space. If we look at that  22 company in San Francisco that has one of the leading  23 cryptocurrencies, not Stellar -- Ripple. Ripple.  24 That's very successful. The people who  25 sold Ripple have made hundreds of millions of</p>

<p style="text-align: right;">Page 77</p> <p>1 dollars as far as I understand. A bunch of suckers  2 bought it. It's gone way down. It's been very  3 successful for the people on the inside who created  4 the cryptocurrency and sold it and been successful,  5 but it's not like there's really hardly any users of  6 this cryptocurrency.  7 BY MS. BAILEY:  8 <b>Q. I want to separate this out. The side</b>  9 <b>that I want to focus on for the time being is the</b>  10 <b>vision for how Kin would be used as Kik had</b>  11 <b>portrayed it to the public before the token sale.</b>  12 <b>So was it your understanding that Kin was a new</b>  13 <b>option for a business model for various applications</b>  14 <b>or developers?</b>  15 MS. D'ALLAIRD: Objection.  16 THE WITNESS: Yes, it could be. The idea  17 was that it could be used by other application  18 developers, yes.  19 BY MS. BAILEY:  20 <b>Q. So in that sense, just in that sense could</b>  21 <b>it become successful at that goal if it weren't</b>  22 <b>used?</b>  23 MS. D'ALLAIRD: Objection.  24 THE WITNESS: No.  25 ///</p>	<p style="text-align: right;">Page 79</p> <p>1 A. Yes.  2 <b>Q. Have you ever seen that happen in your</b>  3 <b>experience?</b>  4 A. Yes.  5 <b>Q. So earlier you testified that you</b>  6 <b>generally follow cryptocurrency markets and have</b>  7 <b>been doing so since 2013; is that right?</b>  8 A. Yes.  9 <b>Q. So in that time this is something you have</b>  10 <b>observed happening?</b>  11 MS. D'ALLAIRD: Objection.  12 THE WITNESS: Yes.  13 BY MS. BAILEY:  14 <b>Q. Would that be, in your experience would</b>  15 <b>that be irrespective of anything Kik or any other</b>  16 <b>company did to cause the prices of all the</b>  17 <b>cryptocurrencies to inflate?</b>  18 MS. D'ALLAIRD: Objection.  19 THE WITNESS: It wouldn't be completely  20 irrespective because clearly for any of the  21 currencies, even those that don't have a company  22 behind them, there are developers, so clearly their  23 success is at least somewhat related to the work the  24 developers have done on the application.  25 ///</p>
<p style="text-align: right;">Page 78</p> <p>1 BY MS. BAILEY:  2 <b>Q. I want to ask a few followup questions</b>  3 <b>about the other side of it that you've referenced</b>  4 <b>which is that the price can go up irrespective of</b>  5 <b>use or whether it was being used. So with a</b>  6 <b>cryptocurrency like Kin where its primary intention</b>  7 <b>is to be used, why would it go up in value even if</b>  8 <b>it weren't being used?</b>  9 MS. D'ALLAIRD: Objection.  10 THE WITNESS: You just said its primary  11 intention which is both vague and like -- I don't  12 really -- my guess would be the primary intention of  13 Kin would be for the people who run Kik to make a  14 large pile of money selling it and it going up in  15 price. To do that they would have to have a lot  16 of -- it would be most likely to go up in price if  17 there were either a lot of real users or there was a  18 perception that there were a lot of real users.  19 BY MS. BAILEY:  20 <b>Q. That's fair. I didn't mean to put any</b>  21 <b>words in your mouth or ascribe any meaning to what</b>  22 <b>the purpose was, but what I'm trying to understand</b>  23 <b>is it possible for the market forces of the industry</b>  24 <b>generally to drive the value of cryptocurrencies up</b>  25 <b>and down?</b></p>	<p style="text-align: right;">Page 80</p> <p>1 BY MS. BAILEY:  2 <b>Q. So say Ethereum or another blockchain</b>  3 <b>that's already been launched, is it possible that</b>  4 <b>the price of ether or any other cryptocurrency could</b>  5 <b>go up and down in value based on factors that don't</b>  6 <b>have anything to do with what the Ethereum</b>  7 <b>foundation is doing?</b>  8 MS. D'ALLAIRD: Objection.  9 THE WITNESS: You just said don't have  10 anything to do.  11 BY MS. BAILEY:  12 <b>Q. I'm saying is it possible that it could go</b>  13 <b>up and down based on factors that didn't have</b>  14 <b>anything to do -- I'm not saying that that's</b>  15 <b>exclusively how the price could go up or down, but</b>  16 <b>I'm asking whether that's a possibility that outside</b>  17 <b>factors other than the company could influence the</b>  18 <b>price up or down?</b>  19 MS. D'ALLAIRD: Objection.  20 THE WITNESS: The outside factors could  21 influence the price up and down but it's impossible  22 that the company or in the case of Kin or the  23 developers in the case of say Bitcoin don't have any  24 effect on the price. Because clearly the price is  25 related to the underlying -- to some extent it's</p>

<p style="text-align: right;">Page 81</p> <p>1 related to the underlying protocol and software  2 which is developed by people.  3 BY MS. BAILEY:  4 <b>Q. What is your basis for that thought?</b>  5 A. Because there are no cryptocurrencies that  6 have just appeared on earth out of nowhere without  7 humans developing them.  8 <b>Q. So what you're saying is somebody created</b>  9 <b>it and built the underlying infrastructure; right?</b>  10 MS. D'ALLAIRD: Objection.  11 BY MS. BAILEY:  12 <b>Q. So to some degree that's part of it of</b>  13 <b>course. But putting that aside, once the project</b>  14 <b>has been launched is it possible for there to be</b>  15 <b>other factors that affect the price up or down?</b>  16 MS. D'ALLAIRD: Objection.  17 THE WITNESS: There are -- it is possible  18 for there to be other factors, yes.  19 BY MS. BAILEY:  20 <b>Q. Is that something you've seen happening</b>  21 <b>over the years of following the industry?</b>  22 MS. D'ALLAIRD: Objection.  23 THE WITNESS: Yes, but I mean, that  24 applies to any single thing that's bought and sold  25 on earth by humans. Like the price of like cobalt</p>	<p style="text-align: right;">Page 83</p> <p>1 BY MS. BAILEY:  2 <b>Q. Fair. Were you -- this isn't to say -- or</b>  3 <b>this isn't to ask whether this was your sole</b>  4 <b>motivation but were you in some part hoping that</b>  5 <b>market prices would go up and with it the price of</b>  6 <b>Kin would go up?</b>  7 MS. D'ALLAIRD: Objection.  8 THE WITNESS: Yes.  9 BY MS. BAILEY:  10 <b>Q. So in that sense are there certain</b>  11 <b>parallels between Kin tokens and the items you</b>  12 <b>described, like cobalt or platinum I think were the</b>  13 <b>two examples. Are there some parallels in that</b>  14 <b>sense between those two types of assets?</b>  15 A. Yes.  16 <b>Q. What would those parallels be, just to</b>  17 <b>cover it.</b>  18 MS. D'ALLAIRD: Objection.  19 THE WITNESS: That they can be bought and  20 sold.  21 BY MS. BAILEY:  22 <b>Q. How about their price dynamic? Are there</b>  23 <b>any parallels in how the price evolves over time for</b>  24 <b>something like Kin versus something like cobalt?</b>  25 <b>Earlier you testified that cobalt goes up and down</b></p>
<p style="text-align: right;">Page 82</p> <p>1 or platinum goes up and down like based on lots of  2 different factors, including like the miners of the  3 thing and the demand for it and the speculation and  4 all those things.  5 BY MS. BAILEY:  6 <b>Q. So in your view is supply and demand a</b>  7 <b>major determinant of the price of any asset?</b>  8 MS. D'ALLAIRD: Objection.  9 THE WITNESS: Yes.  10 BY MS. BAILEY:  11 <b>Q. And does that apply to Kin as well?</b>  12 A. Yes.  13 <b>Q. And could you -- is it your belief that</b>  14 <b>Kin's price could be affected by swings in the</b>  15 <b>market?</b>  16 MS. D'ALLAIRD: Objection.  17 THE WITNESS: Yes.  18 BY MS. BAILEY:  19 <b>Q. Was that something that you personally</b>  20 <b>anticipated when you bought Kin?</b>  21 MS. D'ALLAIRD: Objection.  22 THE WITNESS: Yes. Because it's hard to  23 envision any cryptocurrency that wasn't affected by  24 swings in the market.  25 ///</p>	<p style="text-align: right;">Page 84</p> <p>1 <b>based on certain factors. I believe you said like</b>  2 <b>supply and demand. Correct me if I'm misstating</b>  3 <b>you. Is that also true for Kin?</b>  4 MS. D'ALLAIRD: Objection.  5 THE WITNESS: Yes.  6 BY MS. BAILEY:  7 <b>Q. So in that sense there's some</b>  8 <b>similarities.</b>  9 A. Yes.  10 <b>Q. Have you ever heard the term "Kin</b>  11 <b>Ecosystem"?</b>  12 A. Yes.  13 <b>Q. What does that mean to you?</b>  14 A. It likely refers to the idea that multiple  15 application developers will allow for the usage of  16 Kin in their applications.  17 <b>Q. Okay. And what functionality needs to</b>  18 <b>exist in a cryptocurrency in order for another</b>  19 <b>developer to use it within their app?</b>  20 MS. D'ALLAIRD: Objection.  21 THE WITNESS: What functionality? Well,  22 this needs to be a public protocol which the  23 application can use in order to send requests back  24 and forth to a node on -- a node that has access to  25 the blockchain of that currency.</p>

<p style="text-align: right;">Page 85</p> <p>1 BY MS. BAILEY:</p> <p>2 <b>Q. And earlier you had testified I believe</b></p> <p>3 <b>that any developer could have integrated Kin after</b></p> <p>4 <b>the token sale, immediately after the token sale.</b></p> <p>5 <b>Am I quoting you correctly?</b></p> <p>6 MS. D'ALLAIRD: Objection.</p> <p>7 THE WITNESS: I don't remember saying</p> <p>8 that.</p> <p>9 BY MS. BAILEY:</p> <p>10 <b>Q. Is it your understanding that companies</b></p> <p>11 <b>could have used Kin immediately following the token</b></p> <p>12 <b>sale?</b></p> <p>13 MS. D'ALLAIRD: Objection.</p> <p>14 THE WITNESS: My recollection is that that</p> <p>15 had not -- was not ready yet, but there was some</p> <p>16 idea that in the future there would be a way for</p> <p>17 other application developers to use Kin.</p> <p>18 BY MS. BAILEY:</p> <p>19 <b>Q. Okay. So earlier we had talked in some</b></p> <p>20 <b>detail about the technical components of a</b></p> <p>21 <b>cryptocurrency and sort of how it can be used in</b></p> <p>22 <b>various forms and I think you had an acronym that</b></p> <p>23 <b>you had used for the type of -- I don't want to try</b></p> <p>24 <b>and characterize it because I'll be wrong but is</b></p> <p>25 <b>there a way for any company to use a cryptocurrency</b></p>	<p style="text-align: right;">Page 87</p> <p>1 <b>mentioned it was a function of various developers</b></p> <p>2 <b>using Kin. Is that accurate to say?</b></p> <p>3 MS. D'ALLAIRD: Objection.</p> <p>4 BY MS. BAILEY:</p> <p>5 <b>Q. And please correct me if you have a</b></p> <p>6 <b>different understanding.</b></p> <p>7 A. The Kin Ecosystem sounds like a marketing</p> <p>8 term to me. So I'm not really willing to say what</p> <p>9 is or isn't the Kin Ecosystem.</p> <p>10 <b>Q. Earlier I asked you what that term means</b></p> <p>11 <b>to you and you had given a description of that it's</b></p> <p>12 <b>developers who had integrated Kin into various</b></p> <p>13 <b>applications, I believe. Is that fair to say?</b></p> <p>14 MS. D'ALLAIRD: Objection.</p> <p>15 THE WITNESS: It would be the marketing</p> <p>16 term for the idea that there are applications that</p> <p>17 have integrated it in one way or the other, yes.</p> <p>18 Whether such an ecosystem actually exists at this</p> <p>19 point I'm not -- I can't say.</p> <p>20 BY MS. BAILEY:</p> <p>21 <b>Q. That's fine. But if Kin had that basic</b></p> <p>22 <b>ability to be transferred as a medium of exchange,</b></p> <p>23 <b>do you think that's enough for the Kin Ecosystem --</b></p> <p>24 <b>I'll just keep using that term -- to exist?</b></p> <p>25 MS. D'ALLAIRD: Objection.</p>
<p style="text-align: right;">Page 86</p> <p>1 <b>that's on the Ethereum blockchain?</b></p> <p>2 MS. D'ALLAIRD: Objection.</p> <p>3 THE WITNESS: Yes. Anybody could build</p> <p>4 into an application a way to communicate with the</p> <p>5 Ethereum blockchain.</p> <p>6 BY MS. BAILEY:</p> <p>7 <b>Q. So that's what I'm trying to get at here.</b></p> <p>8 <b>Thank you for bearing with me. It's hypothetically</b></p> <p>9 <b>since Kin was functioning on the Ethereum blockchain</b></p> <p>10 <b>was it possible for companies to transact with it on</b></p> <p>11 <b>day one after the token sale?</b></p> <p>12 MS. D'ALLAIRD: Objection.</p> <p>13 THE WITNESS: Oh, I see what you're</p> <p>14 saying. Yes, you're absolutely right that at that</p> <p>15 point the Kin token was a token on top of the</p> <p>16 Ethereum blockchain and there were already at that</p> <p>17 point wallet providers for example where you could</p> <p>18 store your tokens in your Ethereum wallet. So yes,</p> <p>19 you're right that at that point any developer could</p> <p>20 have added the ability to interact with the -- in a</p> <p>21 pretty limited fashion with the Kin tokens in an</p> <p>22 Ethereum wallet.</p> <p>23 BY MS. BAILEY:</p> <p>24 <b>Q. So if -- I'm going to call back to your</b></p> <p>25 <b>understanding of the Kin Ecosystem. I believe you</b></p>	<p style="text-align: right;">Page 88</p> <p>1 THE WITNESS: The question is too vague.</p> <p>2 BY MS. BAILEY:</p> <p>3 <b>Q. Okay. I'll narrow it down. So if -- is</b></p> <p>4 <b>the functionality of being able to transact in Kin</b></p> <p>5 <b>in various applications sufficient in your view to</b></p> <p>6 <b>amount to an ecosystem?</b></p> <p>7 MS. D'ALLAIRD: Objection.</p> <p>8 THE WITNESS: I think the term ecosystem</p> <p>9 is too vague and I wouldn't say -- what literally</p> <p>10 amounts to an ecosystem is like some wetlands or</p> <p>11 something. That's an ecosystem. This whole</p> <p>12 application of the word ecosystem that was came up</p> <p>13 with by some Internet companies ten years ago and</p> <p>14 now everyone uses, and, like, it can mean so many</p> <p>15 things. It's not like I could testify about what an</p> <p>16 ecosystem is when applied to this.</p> <p>17 BY MS. BAILEY:</p> <p>18 <b>Q. Of course. And I can only ask you as to</b></p> <p>19 <b>what you understand that to mean and that's what I'm</b></p> <p>20 <b>referring to. But would a more accurate term maybe</b></p> <p>21 <b>like an economy?</b></p> <p>22 MS. D'ALLAIRD: Objection.</p> <p>23 THE WITNESS: An economy, the word economy</p> <p>24 to me suggests that there's a critical mass of</p> <p>25 buyers and selling. Like when you say there's a</p>



<p style="text-align: right;">Page 89</p> <p>1 functioning economy it means there's enough buyers  2 and sellers -- there's a functioning economy of salt  3 in this marketplace because people are buying and  4 selling salt all the time. But if there's just  5 someone there wanting to sell it or just people that  6 wanted to buy it you'd say well, the economy, it's  7 not really a full economy because it's not moving  8 back and forth; right?  9 <b>Q. So just to press on that, though, if</b>  10 <b>there's a unique medium of exchange or currency</b>  11 <b>that's unique to a given economy, would that change</b>  12 <b>any of your conclusions about the hypothetical that</b>  13 <b>you just posed?</b>  14 MS. D'ALLAIRD: Objection.  15 THE WITNESS: I'm kind of lost here.  16 BY MS. BAILEY:  17 <b>Q. So there's a fundamental cryptocurrency</b>  18 <b>that's underlying this quote, unquote, economy</b>  19 <b>ecosystem, whatever you want to call it. And if</b>  20 <b>people could transact in that currency, would that</b>  21 <b>be enough in your view to allow developers to</b>  22 <b>achieve the purpose which you described earlier of</b>  23 <b>using Kin within their applications?</b>  24 MS. D'ALLAIRD: Objection.  25 THE WITNESS: I'm still lost. Try one</p>	<p style="text-align: right;">Page 91</p> <p>1 <b>you recall that?</b>  2 A. Yes.  3 <b>Q. So in here it describes, "The vision for</b>  4 <b>Kin is rooted in the belief that a broad group of</b>  5 <b>participants can come together to create an open</b>  6 <b>ecosystem of tools for digital communication and</b>  7 <b>commerce," and then I'm not going to read the rest.</b>  8 <b>So in light of this do you believe that</b>  9 <b>Kik marketed Kin as -- or do you believe that Kik</b>  10 <b>marketed the Kin Ecosystem to the public before the</b>  11 <b>TDE?</b>  12 MS. D'ALLAIRD: Objection.  13 THE WITNESS: It certainly looks like they  14 did, yes.  15 BY MS. BAILEY:  16 <b>Q. And that ecosystem would involve</b>  17 <b>developers offering goods and services in exchange</b>  18 <b>for Kin?</b>  19 MS. D'ALLAIRD: Objection.  20 THE WITNESS: That would be my guess, yes.  21 BY MS. BAILEY:  22 <b>Q. I think you mentioned this but have you</b>  23 <b>been following the Kin Ecosystem -- I'll keep using</b>  24 <b>that term and all I mean is this concept we've been</b>  25 <b>talking about. Have you been following Kin's</b></p>
<p style="text-align: right;">Page 90</p> <p>1 more time.  2 BY MS. BAILEY:  3 <b>Q. You referred to the term of ecosystem as a</b>  4 <b>marketing term. Do you recall that Kik marketed the</b>  5 <b>Kin Ecosystem before the TDE?</b>  6 A. I've definitely heard the term Kin  7 Ecosystem. I'm not sure at what point they began to  8 use that term.  9 <b>Q. Was the project marketed as the Kin</b>  10 <b>Ecosystem?</b>  11 MS. D'ALLAIRD: Objection.  12 THE WITNESS: I don't know. Do they have  13 it in this thing?  14 BY MS. BAILEY:  15 <b>Q. Let's look. So if you go back to that</b>  16 <b>paragraph that we talked about earlier, this is</b>  17 <b>Exhibit -- what is this? This is Exhibit 106. So</b>  18 <b>just to recap, this was the page that we discussed</b>  19 <b>earlier which is a Wayback Machine screen shot of</b>  20 <b>the Kin.Kik.com website.</b>  21 MS. D'ALLAIRD: Again, we object to the  22 introduction of this exhibit.  23 BY MS. BAILEY:  24 <b>Q. So at the bottom right there's a part that</b>  25 <b>says "Our vision" which we discussed previously. Do</b></p>	<p style="text-align: right;">Page 92</p> <p>1 <b>progress to date?</b>  2 A. I have not.  3 <b>Q. So you testified earlier that you recall</b>  4 <b>other projects having marketed their projects as</b>  5 <b>quote, unquote, ecosystems. What do you mean by</b>  6 <b>that?</b>  7 MS. D'ALLAIRD: Objection.  8 THE WITNESS: That a -- the dream of a lot  9 of cryptocurrencies is that there will be a lot of  10 users of them and the word ecosystem is like this  11 sound big and exciting and grand, you know. They're  12 going to be the next Google. They're going to have  13 an ecosystem. All these companies will have  14 ecosystem and they're going to be huge I guess.  15 BY MS. BAILEY:  16 <b>Q. So your view of the term implies that it's</b>  17 <b>some breadth that's part of the word ecosystem</b>  18 <b>agency as you hear it.</b>  19 A. Yeah.  20 <b>Q. Understood. And have you been following</b>  21 <b>any of the developments with the company Kik?</b>  22 A. Not closely. I saw a couple of headlines  23 recently where they sold off -- they sold off the  24 chat application.  25 <b>Q. So you're aware that they sold their chat</b></p>

<p style="text-align: right;">Page 93</p> <p>1 application.</p> <p>2 A. Uh-huh.</p> <p>3 Q. Did you have any reaction to that?</p> <p>4 A. No, not particularly.</p> <p>5 Q. It wasn't particularly important to you</p> <p>6 that they had sold their chat application?</p> <p>7 A. I don't really have an opinion about it</p> <p>8 either way.</p> <p>9 Q. And so you testified earlier that you</p> <p>10 still have your Kin today; right?</p> <p>11 A. That's correct.</p> <p>12 Q. And it didn't -- the fact that you saw Kik</p> <p>13 had sold its chat application didn't cause you to</p> <p>14 want to sell your Kin?</p> <p>15 MS. D'ALLAIRD: Objection.</p> <p>16 THE WITNESS: Because the idea that the</p> <p>17 Kin would be less money? I'm not sure it's worth</p> <p>18 anything right now. I'm not sure there's any market</p> <p>19 for it.</p> <p>20 BY MS. BAILEY:</p> <p>21 Q. I'm just asking if learning that news made</p> <p>22 you want to sell your Kin tokens?</p> <p>23 A. No. Because that's not how -- that's not</p> <p>24 like a good line of thought in investing. It's like</p> <p>25 panic. No, it didn't make me want to sell it.</p>	<p style="text-align: right;">Page 95</p> <p>1 BY MS. BAILEY:</p> <p>2 Q. If it were used as intended meaning if it</p> <p>3 was used as a currency for various digital services?</p> <p>4 MS. D'ALLAIRD: Objection.</p> <p>5 THE WITNESS: Yes.</p> <p>6 BY MS. BAILEY:</p> <p>7 Q. Make sure to let her get her objection in.</p> <p>8 A. Sorry.</p> <p>9 Q. Do you recall -- I know that you mentioned</p> <p>10 you had only -- you remember anything specific about</p> <p>11 the white paper but you believe it was likely that</p> <p>12 you had reviewed it. Do you remember anything in</p> <p>13 the white people or otherwise where Kik told you to</p> <p>14 expect that you could profit?</p> <p>15 A. No, I don't remember.</p> <p>16 Q. Do you have any reason to believe that</p> <p>17 they did make any such statement?</p> <p>18 MS. D'ALLAIRD: Objection.</p> <p>19 THE WITNESS: I don't have any reason to</p> <p>20 believe and that would be a pretty amateur move. So</p> <p>21 I doubt they would make such statement.</p> <p>22 BY MS. BAILEY:</p> <p>23 Q. So you say you would doubt that Kik would</p> <p>24 make a statement that people could expect to profit</p> <p>25 from purchasing Kin?</p>
<p style="text-align: right;">Page 94</p> <p>1 Q. So this is going to sound like a silly</p> <p>2 question so bear with me but despite the fact that</p> <p>3 Kik sold its chat application your Kin still exists;</p> <p>4 right?</p> <p>5 MS. D'ALLAIRD: Objection.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MS. BAILEY:</p> <p>8 Q. Did you have the idea when you bought Kin</p> <p>9 that you might profit from that purchase?</p> <p>10 A. Yes.</p> <p>11 Q. Why did you think that?</p> <p>12 A. I think you already asked that. But to go</p> <p>13 over it again, I thought that the value of the Kin</p> <p>14 could increase because I thought that the usage --</p> <p>15 that the overall proposal that a cryptocurrency</p> <p>16 could be used in a chat application successfully was</p> <p>17 a good idea, a good proposal and I thought that</p> <p>18 could work at some point and Kin was well positioned</p> <p>19 to be that application -- Kin was looked to be that</p> <p>20 currency because Kik already had an application and</p> <p>21 user base.</p> <p>22 Q. So it was your impression that you could</p> <p>23 profit if Kin were used as intended?</p> <p>24 MS. D'ALLAIRD: Objection.</p> <p>25 THE WITNESS: Yes. Well, intended --</p>	<p style="text-align: right;">Page 96</p> <p>1 MS. D'ALLAIRD: Objection.</p> <p>2 THE WITNESS: Correct.</p> <p>3 BY MS. BAILEY:</p> <p>4 Q. Were you hoping when you bought Kin that</p> <p>5 well established companies would integrate it into</p> <p>6 their projects?</p> <p>7 MS. D'ALLAIRD: Objection.</p> <p>8 THE WITNESS: No.</p> <p>9 BY MS. BAILEY:</p> <p>10 Q. So if for example Google or Amazon started</p> <p>11 accepting Kin would that matter to you as someone</p> <p>12 who has Kin today?</p> <p>13 MS. D'ALLAIRD: Objection.</p> <p>14 THE WITNESS: It would matter because it</p> <p>15 would likely be that the demand for Kin would likely</p> <p>16 increase.</p> <p>17 BY MS. BAILEY:</p> <p>18 Q. Okay. Understood. When you bought your</p> <p>19 Kin could you decide to sell it at any time you</p> <p>20 wanted to?</p> <p>21 A. I could decide to sell it any time I</p> <p>22 wanted to, but to actually sell it would require an</p> <p>23 exchange and a willing buyer.</p> <p>24 Q. Sure. So phrased another way, did Kik</p> <p>25 impose any limitations on when you could sell your</p>



<p style="text-align: right;">Page 97</p> <p>1 <b>Kin?</b></p> <p>2 A. No. And I don't think they would have the</p> <p>3 technical facility to do so.</p> <p>4 <b>Q. What do you mean by that?</b></p> <p>5 A. I don't think that there's a way on the</p> <p>6 Ethereum network to prevent the transfer of</p> <p>7 Ethereum -- of ether or ether tokens to my</p> <p>8 knowledge.</p> <p>9 <b>Q. Fair. Okay. So --</b></p> <p>10 A. That said there are smart contracts --</p> <p>11 there absolutely can be something on the Ethereum</p> <p>12 network where there's a smart contract which does</p> <p>13 allow for restriction of transfer and movement, all</p> <p>14 that kind of thing. But my understanding of the Kin</p> <p>15 token was that there are no such restrictions and it</p> <p>16 did not rely on a smart contract, beyond the smart</p> <p>17 contract that was used for the creation of the token</p> <p>18 itself.</p> <p>19 <b>Q. So your understanding of the smart</b></p> <p>20 <b>contract that governed the sale of Kin is that it</b></p> <p>21 <b>effectively transferred Kin to you and then there</b></p> <p>22 <b>were no other restrictions imposed on you as</b></p> <p>23 <b>somebody who owned Kin with what you could do with</b></p> <p>24 <b>it?</b></p> <p>25 MS. D'ALLAIRD: Objection.</p>	<p style="text-align: right;">Page 99</p> <p>1 please continue.</p> <p>2 THE WITNESS: Supposedly it tracks the</p> <p>3 market capitalization of the currency.</p> <p>4 BY MS. BAILEY:</p> <p>5 <b>Q. Does it show changes in price?</b></p> <p>6 A. It should show changes in price and the</p> <p>7 total value of all of the market capitalization,</p> <p>8 meaning the total value of all the tokens added up.</p> <p>9 <b>Q. Right. So if we're looking at this chart</b></p> <p>10 <b>here, you'll see that it says Kin charts in the</b></p> <p>11 <b>upper left corner. Do you see that?</b></p> <p>12 A. Kin charts? Where are we looking?</p> <p>13 <b>Q. Right above the chart in the middle --</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. -- to the left.</b></p> <p>16 A. Yes, I see that.</p> <p>17 <b>Q. What is your understanding of what this</b></p> <p>18 <b>chart represents?</b></p> <p>19 MS. D'ALLAIRD: Objection.</p> <p>20 THE WITNESS: My understanding is that it</p> <p>21 represents the market price of Kin plotted over</p> <p>22 these two years.</p> <p>23 BY MS. BAILEY:</p> <p>24 <b>Q. So I'm going to ask you a series of</b></p> <p>25 <b>hypotheticals. If you look with me -- I know the</b></p>
<p style="text-align: right;">Page 98</p> <p>1 THE WITNESS: Correct.</p> <p>2 BY MS. BAILEY:</p> <p>3 <b>Q. So is it the case that anybody who had Kin</b></p> <p>4 <b>after the token sale could sell it at any time they</b></p> <p>5 <b>wanted to?</b></p> <p>6 MS. D'ALLAIRD: Objection.</p> <p>7 THE WITNESS: Technically they could sell</p> <p>8 it, yes.</p> <p>9 BY MS. BAILEY:</p> <p>10 <b>Q. So cryptocurrency rises and falls in</b></p> <p>11 <b>value; right?</b></p> <p>12 MS. D'ALLAIRD: Objection.</p> <p>13 THE WITNESS: Yes.</p> <p>14 BY MS. BAILEY:</p> <p>15 <b>Q. I've just handed -- you've just been</b></p> <p>16 <b>handed an exhibit marked Exhibit 107. It is a</b></p> <p>17 <b>screen grab of a website called CoinMarketCap. Are</b></p> <p>18 <b>you familiar with this website?</b></p> <p>19 (Exhibit 107 was marked for identification</p> <p>20 by the Reporter.)</p> <p>21 A. Yes.</p> <p>22 <b>Q. What is your understanding of what</b></p> <p>23 <b>CoinMarketCap offers?</b></p> <p>24 MS. D'ALLAIRD: I'm just going to quickly</p> <p>25 object to the introduction of this exhibit but</p>	<p style="text-align: right;">Page 100</p> <p>1 font is small, I apologize for that but if you go to</p> <p>2 say -- if you see on the bottom line there's a</p> <p>3 number of months, it says October '17, January '18.</p> <p>4 Do you see that?</p> <p>5 A. Uh-huh.</p> <p>6 <b>Q. If I pinpoint a time right before January</b></p> <p>7 <b>'18, so say December, if somebody sold at that point</b></p> <p>8 <b>would they make a different amount of money from</b></p> <p>9 <b>that sale as opposed to somebody who sold say in</b></p> <p>10 <b>January 2018?</b></p> <p>11 MS. D'ALLAIRD: Objection.</p> <p>12 THE WITNESS: Yes.</p> <p>13 BY MS. BAILEY:</p> <p>14 <b>Q. Because the price had gone up by the time</b></p> <p>15 <b>the next person had hypothetically sold; right?</b></p> <p>16 MS. D'ALLAIRD: Objection.</p> <p>17 THE WITNESS: Give me the two time periods</p> <p>18 you're discussing again?</p> <p>19 BY MS. BAILEY:</p> <p>20 <b>Q. Just for the same of example, we can pick</b></p> <p>21 <b>any time period on here but if somebody sold in</b></p> <p>22 <b>October even or the first point on this chart and</b></p> <p>23 <b>then a different person sold on the point where it</b></p> <p>24 <b>says January 2017, those two people would quote,</b></p> <p>25 <b>unquote, profit differently. Is it fair to say?</b></p>

<p style="text-align: right;">Page 101</p> <p>1 MS. D'ALLAIRD: Objection.</p> <p>2 THE WITNESS: Yes, except that with a not</p> <p>3 so liquid token like this these charts are not</p> <p>4 accurate and not necessarily real, however, what</p> <p>5 you're saying is correct. Yes.</p> <p>6 BY MS. BAILEY:</p> <p>7 <b>Q. So the chart is really just a</b></p> <p>8 <b>demonstrative of a more general concept and what I'm</b></p> <p>9 <b>asking is if somebody sold on one day when the price</b></p> <p>10 <b>was at a certain level and a different person sold</b></p> <p>11 <b>on a different day when the price was say higher or</b></p> <p>12 <b>much lower, is it possible that one person could</b></p> <p>13 <b>profit and one person could lose based on their</b></p> <p>14 <b>sales of Kin?</b></p> <p>15 MS. D'ALLAIRD: Objection.</p> <p>16 THE WITNESS: Yes.</p> <p>17 BY MS. BAILEY:</p> <p>18 <b>Q. So in your view would that mean that the</b></p> <p>19 <b>fortunes of those two people were not necessarily</b></p> <p>20 <b>aligned?</b></p> <p>21 MS. D'ALLAIRD: Objection.</p> <p>22 THE WITNESS: Yes.</p> <p>23 BY MS. BAILEY:</p> <p>24 <b>Q. Just to put a little tweak on that, would</b></p> <p>25 <b>it be fair to say that the fortunes of those two</b></p>	<p style="text-align: right;">Page 103</p> <p>1 <b>terms of that deal?</b></p> <p>2 MS. D'ALLAIRD: Objection.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MS. BAILEY:</p> <p>5 <b>Q. So are you familiar with the term "as-is"</b></p> <p>6 <b>in any context?</b></p> <p>7 A. Yes.</p> <p>8 MS. D'ALLAIRD: I'm sorry. Objection.</p> <p>9 BY MS. BAILEY:</p> <p>10 <b>Q. What does that term mean to you?</b></p> <p>11 A. That when you buy something you get it as</p> <p>12 it is and you can't request modifications after the</p> <p>13 fact.</p> <p>14 <b>Q. So are you saying that you receive it free</b></p> <p>15 <b>and clear? Is that a way to put it?</b></p> <p>16 MS. D'ALLAIRD: Objection.</p> <p>17 THE WITNESS: I don't really know what</p> <p>18 that means.</p> <p>19 BY MS. BAILEY:</p> <p>20 <b>Q. Fair. Do you recall there being a</b></p> <p>21 <b>contract between you and Kik when you bought Kin?</b></p> <p>22 MS. D'ALLAIRD: Objection.</p> <p>23 THE WITNESS: I don't recall it but there</p> <p>24 likely was one because I possibly went on some</p> <p>25 website and there was probably some terms I agreed</p>
<p style="text-align: right;">Page 102</p> <p>1 <b>people would be different?</b></p> <p>2 MS. D'ALLAIRD: Objection.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MS. BAILEY:</p> <p>5 <b>Q. Did Kik owe you any continuing contractual</b></p> <p>6 <b>duties after the token sale completed?</b></p> <p>7 MS. D'ALLAIRD: Objection.</p> <p>8 THE WITNESS: I don't think so, no.</p> <p>9 BY MS. BAILEY:</p> <p>10 <b>Q. So let's walk through it -- through that.</b></p> <p>11 <b>Just as a basic matter is it your understanding</b></p> <p>12 <b>generally that the terms of a contract govern the</b></p> <p>13 <b>parties' duties in any particular transaction?</b></p> <p>14 MS. D'ALLAIRD: Objection.</p> <p>15 THE WITNESS: Yes, but isn't the question</p> <p>16 here of whether Kin is selling a security or not?</p> <p>17 And if it's selling a security it's up to the SEC to</p> <p>18 say what the rules are. There is a contract which</p> <p>19 is set by Congress I guess if it's a security.</p> <p>20 BY MS. BAILEY:</p> <p>21 <b>Q. What I'm actually asking about are the</b></p> <p>22 <b>terms of the contract in a more traditional sense</b></p> <p>23 <b>between you and Kik when you bought Kin. When you</b></p> <p>24 <b>enter into any deal to purchase something is it</b></p> <p>25 <b>common for there to be a contract that explains the</b></p>	<p style="text-align: right;">Page 104</p> <p>1 to.</p> <p>2 BY MS. BAILEY:</p> <p>3 <b>Q. Are you familiar with a document called</b></p> <p>4 <b>the "terms of use agreement"?</b></p> <p>5 A. I know about terms of use agreements and</p> <p>6 I'm not familiar with this one.</p> <p>7 <b>Q. I should clarify. Are you familiar with</b></p> <p>8 <b>the terms of use agreement that related to this</b></p> <p>9 <b>particular sale of Kin?</b></p> <p>10 A. No.</p> <p>11 <b>Q. You've just been handed an exhibit marked</b></p> <p>12 <b>108. At the top it reads "Terms of Use Agreement"</b></p> <p>13 <b>and it bears Bates label Kik 000079. Does this</b></p> <p>14 <b>document look familiar to you?</b></p> <p>15 (Exhibit 108 was marked for identification</p> <p>16 by the Reporter.)</p> <p>17 THE WITNESS: No.</p> <p>18 BY MS. BAILEY:</p> <p>19 <b>Q. So do you recall having to acknowledge it</b></p> <p>20 <b>or having seen it at any time before you purchased</b></p> <p>21 <b>Kin?</b></p> <p>22 MS. D'ALLAIRD: Objection.</p> <p>23 THE WITNESS: I don't recall it. I don't</p> <p>24 remember seeing it and it's likely that I did agree</p> <p>25 to it.</p>

<p style="text-align: right;">Page 105</p> <p>1 BY MS. BAILEY:</p> <p>2 <b>Q. So do you have any reason to doubt that</b></p> <p>3 <b>you agreed to this?</b></p> <p>4 MS. D'ALLAIRD: Objection.</p> <p>5 THE WITNESS: I do not.</p> <p>6 BY MS. BAILEY:</p> <p>7 <b>Q. Okay. So I'm going to direct you two,</b></p> <p>8 <b>three pages. If you skip to page -- with the Bates</b></p> <p>9 <b>label Kik 000088. I think it's the tenth page in.</b></p> <p>10 <b>There's a section called "disclaimers" that have a</b></p> <p>11 <b>block of text in all caps. Do you see that?</b></p> <p>12 A. Yes.</p> <p>13 <b>Q. So do you see where it says, "Except as</b></p> <p>14 <b>expressly provided to the contrary in a writing by</b></p> <p>15 <b>Kik the site content contained therein and Kin</b></p> <p>16 <b>tokens are provided on an as-is and as available</b></p> <p>17 <b>basis without warranties or conditions of any kind,"</b></p> <p>18 <b>and it continues on. But I will spare all of us</b></p> <p>19 <b>from me reading all of it. Do you see that?</b></p> <p>20 A. I do.</p> <p>21 <b>Q. What does that mean to you sitting here</b></p> <p>22 <b>today reading it?</b></p> <p>23 A. To me reading this it means that I agreed</p> <p>24 to -- I likely agreed to these terms whereby the Kin</p> <p>25 company -- Kik company, Kik Interactive would have</p>	<p style="text-align: right;">Page 107</p> <p>1 <b>conclusions based on this with you here today about</b></p> <p>2 <b>whether something is or is not a security.</b></p> <p>3 A. Okay.</p> <p>4 MS. D'ALLAIRD: I just have to interject</p> <p>5 here, I'm going to object to this line of</p> <p>6 questioning. I'm not a lawyer here.</p> <p>7 MS. BAILEY: I'm not questioning him about</p> <p>8 anything related to securities law.</p> <p>9 MS. D'ALLAIRD: You are but you're asking</p> <p>10 him about contract law and I'm just going to object</p> <p>11 to this line of questioning, but please continue. I</p> <p>12 just want to log that for the record.</p> <p>13 BY MS. BAILEY:</p> <p>14 <b>Q. To be clear, I'm asking you only what your</b></p> <p>15 <b>understanding is of what you agreed to or what you</b></p> <p>16 <b>likely agreed to by virtue of this contract that</b></p> <p>17 <b>we're talking about, the terms of this agreement.</b></p> <p>18 A. So I agreed to this and as long as there</p> <p>19 isn't another overriding law or policy or something</p> <p>20 which would make this invalid, then I think that I'm</p> <p>21 likely bound by this agreement.</p> <p>22 <b>Q. And I'm -- I don't need -- I'm not asking</b></p> <p>23 <b>you to reach any legal conclusion about whether this</b></p> <p>24 <b>agreement is valid or whether it's legally</b></p> <p>25 <b>enforceable. I'm not asking you to reach any of</b></p>
<p style="text-align: right;">Page 106</p> <p>1 no obligations, no specific obligations to me as an</p> <p>2 owner of this thing I was buying from them. And</p> <p>3 that seems likely but none of this relates -- just</p> <p>4 because I agreed to it doesn't mean that Kik wasn't</p> <p>5 selling a security and that the rules -- that the</p> <p>6 American securities laws -- I mean, don't apply.</p> <p>7 So this -- my -- I'm not a lawyer but like</p> <p>8 this sort of thing can be -- a court could look at</p> <p>9 this and say this is invalid because they're selling</p> <p>10 a security and they didn't do X, Y, Z when they're</p> <p>11 selling a security.</p> <p>12 <b>Q. Do you know what those securities laws</b></p> <p>13 <b>are?</b></p> <p>14 A. No, I don't in particular.</p> <p>15 <b>Q. What would be the basis for that belief</b></p> <p>16 <b>that it could still be a security?</b></p> <p>17 A. I know there's something called the Howey</p> <p>18 Test, Howey whatever. And I don't know exactly how</p> <p>19 it works, but I do know that the SEC will say hey,</p> <p>20 there's lots of people who sell things and then the</p> <p>21 SEC shows up and say that was a security. You're</p> <p>22 not allowed to sell it like that. So you may have</p> <p>23 had this agreement with your buyer but it's invalid</p> <p>24 because what you're doing is selling a security.</p> <p>25 <b>Q. I don't necessarily want to draw any</b></p>	<p style="text-align: right;">Page 108</p> <p>1 <b>those conclusions today. I'm only asking</b></p> <p>2 <b>specifically right now with respect to this clause</b></p> <p>3 <b>where it says that the tokens -- the tokens are</b></p> <p>4 <b>provided on an as-is and as available basis.</b></p> <p>5 <b>I'm just asking what your understanding of</b></p> <p>6 <b>what those terms are. I think that you've already</b></p> <p>7 <b>given me an answer on that. If you have anything</b></p> <p>8 <b>else that you want to add then please feel free.</b></p> <p>9 <b>I'm not asking you to give me any legal opinions or</b></p> <p>10 <b>anything like that just to be clear.</b></p> <p>11 MS. D'ALLAIRD: Objection.</p> <p>12 BY MS. BAILEY:</p> <p>13 <b>Q. Are you aware of any other contract that</b></p> <p>14 <b>governed your arrangement with Kik?</b></p> <p>15 MS. D'ALLAIRD: Objection.</p> <p>16 THE WITNESS: Am I aware. There probably</p> <p>17 are -- of contracts? No.</p> <p>18 BY MS. BAILEY:</p> <p>19 <b>Q. Are you aware of having agreed to or read</b></p> <p>20 <b>or signed any other contracts between you and Kik?</b></p> <p>21 MS. D'ALLAIRD: Objection.</p> <p>22 THE WITNESS: No.</p> <p>23 BY MS. BAILEY:</p> <p>24 <b>Q. So just to clear it up and just to</b></p> <p>25 <b>summarize what we've gone through, assuming and</b></p>

<p style="text-align: right;">Page 109</p> <p>1 putting aside the issue of whether these terms are  2 valid, just assuming that they are, did you  3 understand -- or do you understand from this  4 language that Kik had no contractual obligations to  5 you after delivering the Kin tokens?  6 MS. D'ALLAIRD: Same objections as before.  7 THE WITNESS: Assuming that these are  8 valid and there's nothing that overrides them, then  9 yes. I do understand that.  10 BY MS. BAILEY:  11 Q. Is that based on your reading of this  12 language here today?  13 MS. D'ALLAIRD: Objection.  14 THE WITNESS: Yes.  15 BY MS. BAILEY:  16 Q. And are you reaching that conclusion based  17 on your personal understanding of these words in the  18 sense that you described them earlier?  19 MS. D'ALLAIRD: Objection.  20 THE WITNESS: I mean, that's too  21 complicated for me. I can't wrap my mind around  22 that.  23 BY MS. BAILEY:  24 Q. Fair.  25 MS. BAILEY: Can we take a break? We're</p>	<p style="text-align: right;">Page 111</p> <p>1 Q. Does Kik pay you any dividends?  2 A. No.  3 Q. Do you know what dividends are?  4 A. Yes.  5 Q. How about the Kin Foundation? Do they pay  6 you any dividends?  7 A. No.  8 Q. If Kik makes any revenue by selling  9 services in exchange for Kin tokens, do you receive  10 a distribution from Kik in share in those profits?  11 MS. D'ALLAIRD: Objection.  12 THE WITNESS: No.  13 BY MS. BAILEY:  14 Q. And if Kik went out of business would you  15 still have Kin?  16 MS. D'ALLAIRD: Objection.  17 THE WITNESS: Yes.  18 MS. BAILEY: That's all the questions I  19 have. Thank you. I might ask more questions after  20 they're done but that's the all the questions I have  21 for now. And I'll turn it over.  22 MS. D'ALLAIRD: Thank you so much.  23 EXAMINATION  24 BY MS. D'ALLAIRD:  25 Q. Mr. Rousmaniere, I want to also thank you</p>
<p style="text-align: right;">Page 110</p> <p>1 nearing the end. Promise.  2 THE VIDEO OPERATOR: We're going off the  3 record. The time is 11:53 A.M.  4 (Recess taken.)  5 THE VIDEO OPERATOR: We're back on the  6 record. The time is 12:11 P.M.  7 BY MS. BAILEY:  8 Q. Okay. So I'm very close to being done.  9 Thank you for sticking with me. I appreciate it. I  10 just have a few more questions.  11 So when you bought Kin, did you receive  12 any ownership interest in Kik Interactive?  13 A. Not to -- no.  14 Q. Have you ever received disclosures from  15 Kik regarding its performance, financials or  16 otherwise?  17 A. No.  18 Q. Do you have any voting rights in Kik?  19 A. No.  20 Q. Are you aware of an entity called the Kin  21 Foundation?  22 A. Yes.  23 Q. Do you have any voting rights in the Kin  24 Foundation?  25 A. No.</p>	<p style="text-align: right;">Page 112</p> <p>1 for being here today and giving us your time. I  2 only have a few questions for you so we can move  3 through this quickly. So you previously testified  4 that you had met with SEC staff and provided  5 testimony in the investigation that led to this  6 lawsuit; correct?  7 A. Yes.  8 Q. And during your testimony at that time was  9 there a court reporter present there?  10 A. Yes.  11 Q. And was your testimony taken on video?  12 A. Probably. I can't remember.  13 Q. Did you swear to tell the truth at that  14 time?  15 A. I did.  16 Q. And did you tell the truth?  17 A. I did.  18 Q. I just want to draw your attention back to  19 I believe it was marked as Exhibit 105, the  20 transcript.  21 A. Yes, I got it.  22 Q. Now, taking a look at Exhibit 105 it's  23 dated July 18, 2018, witness Alexander Perls  24 Rousmaniere. Just taking a look at this Exhibit  25 105, Mr. Rousmaniere, would this appear to be an</p>

<p style="text-align: right;">Page 113</p> <p>1 accurate transcript of the testimony that you  2 provided to the SEC in July of 2018?  3 A. Yes, it looks like it.  4 Q. Okay. No further questions from our end.  5 MS. BAILEY: We have nothing either.  6 MS. D'ALLAIRD: I just want to note for  7 the record that the SEC is requesting a copy of  8 Mr. Rousmaniere's deposition. And I need a rough as  9 well.  10 THE VIDEO OPERATOR: This is the end of  11 the video deposition of Alexander Rousmaniere.  12 We're going off the record. The time is 12:14 P.M.  13 (Ending time 12:14 p.m.)  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p style="text-align: right;">Page 115</p> <p>1 REPORTER'S CERTIFICATE  2  3 I, JEANINE CURCIONE, C S R NO 10223,  4 RPR, in and for the State of California, do hereby  5 certify:  6 That prior to being examined, the witness  7 named in the foregoing deposition was by me duly  8 sworn to testify the truth, the whole truth and  9 nothing but the truth and that the witness reserved  10 the right of signature;  11 That said deposition was taken down by me  12 in shorthand at the time and place therein named,  13 and thereafter reduced to typewriting under my  14 direction, and the same is a true, correct and  15 complete transcript of said proceedings  16 I further certify that I am not interested  17 in the event of the action  18 Witness my hand this _____ day of _____,  19 _____  20  21 _____  22 Certified Shorthand  23 Reporter for the  24 State of California  25</p>
<p style="text-align: right;">Page 114</p> <p>1 STATE OF CALIFORNIA )  2 )  3 )  4 COUNTY OF LOS ANGELES )  5 )  6 )  7 )  8 I, ALEXANDER ROUSMANIERE, hereby certify  9 under penalty of perjury under the laws of the State  10 of California that the foregoing is true and  11 correct  12 Executed this _____ day of  13 _____, 2019 at  14 _____, California  15  16  17  18  19  20  21  22  23  24  25</p> <p>14 ALEXANDER ROUSMANIERE</p>	